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ILLEGAL RECEIPT OF A CREDIT: FORMAL LEGAL ANALYSIS, QUALIFICATION AND JUDICAL PRACTICE

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Abstract: The aim of this article was to identify legislative and law enforcement problems, to formulate scientifically sound legal positions regarding the doctrinal interpretation of the criminal legislation of the Russian Federation and to improve practical application through a comprehensive legal study of the corpus delicti associated with the illegally receipt of a credit or a credit fraud. The theoretical basis for this research was the works of scientists and practicing lawyers who thoroughly analyzed the issues of crimes in credit and finance. The methodological basis included systemic, comparative legal, formal legal and sociological research methods. The empirical basis of the study was the open data of Russian ethic and legal statistics on credit frauds, the results of criminological and criminal law studies, the directives of the Supreme Court of the Russian Federation on judicial practice, the results of the analysis of criminal cases on credit crimes. Based on the conducted research, generalization of the materials of judicial practice, the authors identified the specifics of the target, object, subject, objective and subjective sides of the illegal receipt of a credit, qualification and delineation from related corpora delicti. The formulated provisions and conclusions can be used for developing proposals on improving legislation on the constructive elements of the illegal

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receipt of a credit and a credit fraud. The research results can be used for accurate qualification of committed socially dangerous acts within criminal law to ensure the uniform application of legal norms concerning the liability for the illegal receipt of a credit by the pre-trial investigation bodies and courts.

Keywords: illegal receipt of a credit, illegal receipt of a state special-purpose loan, credit fraud, misappropriation of budget funds.

1. Introduction

Credit crimes affect the interests of legal business entities and entrepreneurs and pose a serious threat to the normal functioning and the civilized development of market relations in the country. Loan and credit frauds, malicious evasion of paying off credit debt are so widespread that they undermine the work of credit organizations and the development of the whole banking system in Russia. For instance, according to the NBCH (the National Bureau of Credit Histories), in 2016, over a million of loans with elements of fraud were issued, which is 69.5% more than that in 2015. The public danger and the frequent occurrence of loan crimes determine the relevance of criminological and criminal law studies of the problems of combating crime in credit and finance.

Problematic issues of criminal liability, criminal law characteristics, qualifications of loan and credit frauds, other crimes in the field of lending, as well as their delineation with related offenses have been studied by many researchers. Definitely, these works have laid a solid foundation for the science of criminal law and law enforcement practice. However, radical changes in Russia's economic structure, permanent changes in criminal, civil, and banking legislation, vague wordings of criminal law norms, the debatable nature of the provisions in scientific papers, the contradictions of the investigative and judicial practice require further development of this research topic.

The goal of this research was to improve the current criminal law and its practical application in order to increase the effectiveness of the criminal law protection of public relations in the field of lending. To achieve this goal, the following objectives were formulated: to develop theoretical provisions related to objective and subjective elements and

the criminal law qualification of the illegal receipt of a credit, preferential credit terms, as well as illegal drawing and misuse of state special-purpose loans; to perform a formal legal analysis of the most significant theoretical and practical problems associated with doctrinal and judicial interpretation and application of the criminal liability norms regarding the illegal receipt of a credit.

2. Materials and Methods

The methodological basis of the research is represented by the dialectical-materialistic principles of interconnection and determinism, objectivity and comprehensiveness. These were applied to explore social relations in the field of lending, including the provision of state special-purpose loans for the development of certain sectors of the economy, criminal law norms implying the liability for credit frauds and related offenses in specific historical, socio-political, socio-economic and criminological context. In line with these principles, we considered criminal liability for the illegal receipt of a credit as a measure of state influence on numerous fraudulent actions. This measure is aimed at better protection of public relations in the field of lending, which turned out to become frequent subject to criminal offences.

To achieve the research goal, we used the formal legal method. When analyzing various legal positions on the elements of the target, object, subject, objective and subjective sides of the illegal receipt of a credit, its delineation from other related crimes, as well as when developing the key concepts of the crime in question, we used the legal model of criminal law science—“corpus delicti”, which includes a set of objective and subjective elements established by criminal law that allow qualifying a certain socially dangerous act as a specific crime.

When analyzing various approaches to defining the basic criminal law concepts of the crime in question (“illegal receipt of a credit”, “preferential credit terms”, “deliberate misrepresentation”, “economic situation or financial condition of an entrepreneur or an organization”, “a state special-purpose loan”, as well as when developing other operational definitions, we used the systematic, comparative legal, and sociological research methods.

For instance, the comparative method was used to determine the parts of the illegal receipt of a credit and its difference from the corpora delicti of related crimes and offenses: a credit fraud (Article 159.1. of the Criminal Code of the Russian Federation, hereinafter referred to as “the Criminal Code”), misuse of budget funds (Article 285.1 of the Criminal Code), and a loan fraud (Article 14.11. of the Administrative Code of the Russian Federation).

The theoretical basis of the study was formed by the scientific works of B. V. Volzhenkin, N. A. Lopashenko, I. A. Klepitsky, V. D. Larichev, V. Yu. Abramov, A. N. Lyaskalo, A. A. Sapozhkov, Yu. I. Selivanovskaya, V. I. Gladkikh, E. S. Tyutyunnikova, O. V. Ermakov, G. A. Rusanov, M. V. Feoktistov and other authors whose scientific approaches, provisions and conclusions laid the basis of the criminal law characteristics of credit frauds and related offenses.

The empirical basis of the study included the statistical data of various departments, the norms of the current Russian legislation, including the norms of the Criminal Code, the Civil Code, the Budget Code, the Tax Code, other legislative acts, acts of official interpretation presented in the decisions of the Plenum of the Supreme Court of the Russian Federation, materials published and posted in legal information resources “Consultant Plus” and “Garant”, and the information website “Judicial and normative acts of the Russian Federation” on criminal cases of crimes provided for in Articles 176 and 159.1 of the Criminal Code.

The research was carried out in several stages.

At the first stage we determined the research goal: we drew up a plan, put forward a preliminary goal and objectives of the study and identified the sources of empirical material. This stage also included initial selection of literary and normative sources: first, we studied works on criminal law and comments to the Criminal Code, then—dissertations, monographs and scientific publications on problems of criminal liability, qualifications and improvement of criminal law in the field of creditors' rights protection.

At the second, preparatory, stage of the research we studied of Russian legislation regulating and protecting

public relations in the field of lending, specialized legal publications on the selected topic, and the instructions of the Supreme Court of the Russian Federation on judicial practice in cases of credit fraud. At this stage, we adjusted the plan, goal and objectives of the research, formulated some fragments, preliminary provisions and conclusions of the study.

The third, empirical, stage primarily included selection and in-depth study of materials published and placed in the reference legal systems and Internet sites on criminal cases dealing with loan and credit frauds. This stage of the research also included an in-depth analysis of statistical data, legal norms of legislative acts, new publications on problematic issues of the criminal legal characteristics and qualification of credit crimes.

At the fourth, theoretical, stage of the study we performed a thorough analysis of the criminal legal concepts of the studied crime in question presented in publications. We considered scientific debates and judicial practice regarding objective-subjective elements and criminal law qualification of loan frauds. Next, we formulated our legal position on the doctrinal interpretation of criminal law in the Russian Federation and the improvement of its practical application.

The fifth stage included completion and presentation of the research results. We completed work on the text of the paper in accordance with the generally accepted requirements of the IMRAD model: structuring the work, eliminating editorial inaccuracies, clarifying the output data of normative sources and publications.

3. Discussion and Results

The public danger of a crime provided for in Article 176 of the Criminal Code is connected with the fact that it violates the procedure for receiving and issuing loans to borrowers. As a result, loans can be granted to dishonest persons resorting to credit fraud. The immediate object of the illegal receipt of a credit includes the whole range of public relations in the field of lending. Credit relations are regulated by the norms of the Civil Code, the Budget Code, individual federal laws “On the Central Bank of the Russian Federation (Bank of Russia)”, “On Banks and Banking Activities”, “On

Consumer Loans (Credit)" and others legislative acts. Credit relations can be described as relations connected with the provision of funds on the basis of repayment, urgency, payment, security and special purpose. Loans are granted not only by banks, but also by other non-bank deposit-credit organizations: pawnshops, credit cooperatives, mutual assistance funds, leasing centers, and insurance companies. According to the norms of the Civil Code of the Russian Federation, a loan can be legally issued with a loan agreement or as a credit contract.

Legal experts have different opinions on what its immediate object is. N. A. Lopashenko believes that the immediate object of the illegal receipt of a credit is economic relations implying the principle of the integrity of economic entities. According to M. V. Feoktistov, the main immediate object of the illegal receipt of a credit is the financial system of the Russian Federation, the procedure for lending to citizens and economic entities, and the economic interests of creditors as an additional object. G. A. Rusanov assumes that the main immediate object of this crime is public relations ensuring the rule of law in the field of lending. An additional immediate object is public relations ensuring the interests of the state, citizens and organizations in this field.

The target of the crime is the credit itself, preferential credit terms, and a state special-purpose loan, according to the disposition of Article 176 of the Criminal Code. Based on the provisions of Article 819 of the Civil Code, a credit should be understood as monetary funds provided by a bank or another credit organization (lender) to a borrower in the amount and subject to conditions stipulated by the agreement that the borrower is obligated to return and pay interest on their use. Given the wording of Article 176 of the Criminal Code and the provisions of Article 822 of the Civil Code on a commodity loan, the target of a loan fraud can be other things determined by generic characteristics. This is confirmed by investigative and judicial practice.

The court of the Saratov region convicted an individual entrepreneur under Part 1 of Article 176 of the Criminal Code for non-repayment of an acceptance credit to Sberbank of Russia. In another case, the target of a commodity loan was petroleum products

delivered to the Rostov region for agricultural producers. The fact that most of the fuel was sold for other purposes, resulting in damage to the regional budget and, as a result, non-fulfillment of the loan terms, was subject of a criminal investigation on the grounds of Part 2 of Article 166 of the Criminal Code for property managers—heads of Rostov Donnefteproduct Company. The fact of misuse of two budget commodity loans was investigated in a criminal case in the Stavropol Territory. Loans from the regional budget were issued in the form of grain for the production of ethanol to meet the needs of medical institutions and enterprises of the region. During the contract period, alcohol was sold outside the region.

A mandatory element of the subject of the crime in question is the receipt of these funds precisely during the lending, that is, due to the provision or a receipt of a bank, commodity or commercial loan. Despite the legal framework for receiving a loan strictly specified by civil law provided for in the judicial practice under Article 176 of the Criminal Code, there is often a broader interpretation of the legal form of the illegal receipt of a credit.

The court convicted T. of the illegal receipt of a credit. As the director of the Company, T. intentionally, with the aim of illegally receiving a credit, prepared and submitted to the branch office of Bank V in Belgorod accounting documents containing deliberately false information about the financial condition, economic position and the collateral of the Company. As a result, the Company illegally received a bank guarantee for USD 3,500,000. Using this bank guarantee, T. subsequently received a loan for the indicated sum from an international organization. The branch of Bank V. in Belgorod made a payment at the request of a foreign financial organization in accordance with the agreement on the bank guarantee. However, in turn, the Company did not fulfill its obligations to Bank V. As a result, Bank V. suffered material damage from T.'s illegal actions in the amount of USD 3,927,488.79 due to the bank guarantee obtained with deliberately misleading information. In the cassation appeal, convicted T. and his counsel requested to quash the court's verdict as unlawful and unreasonable and to terminate the criminal case against T. due to the absence of a crime event. It

was claimed that the court, when passing the verdict, did not take into account that T. had not received a loan from the bank as such, and therefore could not be held responsible under Part 1 of Article 176 of the Criminal Code. Contrary to the arguments set out in the cassation appeal of the defense, the Belgorod Regional Court, relying on the provisions of Articles 819 and 368 of the Civil Code, reasonably did not agree that the agreements concluded by T. on behalf of the Company with Bank V and the international organization did not imply lending since, according to the requirements of the criminal law, it is a loan and the terms for receiving it are the subject of a crime under Part 1 of Article 176 of the Criminal Code.

The objective side of the illegal receipt of a credit (Part 1 of Article 176 of the Criminal Code) implies receiving a credit or preferential credit terms by an entrepreneur or the head of an organization by submitting to a bank or other lender deliberately misleading information about the economic situation or financial condition of an entrepreneur or organization, if this act causes large-scale damage. Receiving a credit (cash or other property) or preferential credit terms for obtaining it is an unlawful act associated with deceiving a bank or other lender. According to the instructions of the Supreme Court of the Russian Federation and with respect to the objective side of the crime in question, a loan fraud means providing the creditor with deliberate misrepresentation or inaccurate information about the economic situation or financial condition of an entrepreneur or organization that is required by the creditor as a condition for granting a loan, which is done to mislead the creditor.

As stated in Part 1 of Article 176 of the Criminal Code, the creditor may be represented by a bank with the right to conclude a loan agreement, or another lender that has concluded a contract for a commodity or commercial loan.

A bank denotes a credit institution that has the exclusive right to carry out all of the following banking operations: collecting money from individuals and legal entities into deposits, placing the indicated funds on its behalf and for its own account on the basis of repayment, payment, urgency, opening and maintaining banking accounts of individuals and legal entities.

A concessional loan denotes more favorable terms offered by the lender to the borrower. These terms, as a rule, imply a reduced interest rate for using a loan, a longer period for repaying the borrowed funds, and a larger amount of a granted loan. As practice shows, courts rarely consider criminal cases under Article 176 of the Criminal Code where the subject of the crime was a concessional loan. According to A. N. Lyaskalo, this is due to the fact that illegal receipt of preferential credit terms is not considered a qualifying circumstance, but is one of the elements of the objective side of a loan fraud, as well as the fact that it is rather difficult to establish the damage from illegally received preferential credit terms.

A deliberate misrepresentation is false information when the borrower is aware that it distorts or conceals the true picture of their economic situation or financial condition, which misleads the creditor. A. A. Sapozhkov indicates that a deliberate misrepresentation can be included into documents by a hard or intellectual fraud as:

- Including in the original document entries that do not correspond to reality, while the document retains the elements and details of the original (it is made on the required form, contains the names and positions of the persons who are to sign it, etc.); however, the data entered into it (text or digital materials) are false;
- Forgery of a document that includes manufacturing (preparation) of a completely forged document; the entire document is forged—its form and content;
- Falsification of a document (partial falsification)—inclusion of distorted information into an authentic document by, for example, destroying or correcting part of the text, some words or numbers by any means (eroding or erasing, etc.), as well as forgery of an official's signature, changing the issue date of the document, and putting a forged seal on the document.

The use of forged documents implies liability for committing a crime under Article 327 of the Criminal Code: falsification, production or sale of forged documents, state awards, stamps, seals, or forms. Since that the objective side of a loan fraud includes the submission of a deliberate misrepresentation to a bank or other lender, then Part 3 of Article 327 of the Criminal Code, providing for the liability for the use of a deliberately

forged document, cannot be applied. However, actions related to falsification of official documents by the subjects of a crime under Part 1 of Article 176 of the Criminal Code, or other manufacturers of these documents are not covered by this crime and are subject to independent evaluation. In this case, there is a combination of two crimes, that is, Parts 1 or 2 of Article 327 of the Criminal Code and Part 1 of Article 176 of the Criminal Code.

In this case, the legal papers discuss the qualification of the falsified documents. Some authors believe that all the elements of a crime under Article 327 of the Criminal Code are covered by Article 176 of the Criminal Code. Others claim that the forgery of documents used for the illegal receipt of a credit should be independently qualified under Part 1 or Part 2 of Article 327 of the Criminal Code. The Plenum of the Supreme Court of the Russian Federation in its commentary that the theft of a person's property or the acquisition of the right to it through a fraud or breach of trust, committed using a forged official document granting rights or relieving oneself of duties, requires additional qualification under Part 1 of Article 327 of the Criminal Code. Judicial practice for a crime under Article 176 of the Criminal Code demonstrates that the courts, hearing criminal cases of a loan fraud, very rarely consider the issue of additional qualifications and sentencing for forgery of documents (Part 1 of Article 327 of the Criminal Code). Such an approach, in our opinion, is due to the incorrect qualification of a crime at the stage of initiating and investigating a criminal case.

The Magassky District Court of the Republic of Ingushetia established that T. A. Elmurziev, to illegally receive a loan from Rosselkhozbank in the amount of RUB 10 mln, purchased from an unidentified person a copy of forged documents necessary for the analysis and evaluation of the financial condition of the borrower—Uran Company. T. A. Elmurziev entered deliberately false information about the income of Uran Company into these documents, while the tax and accounting statements of this company for 2010 and the first quarter of 2011 were submitted to the Interdistrict Inspectorate of the Federal Tax Service of Russia with zero values. The court found T. A. Elmurziev guilty only of an offense under Part 1 of Article

176 of the Criminal Code and sentenced him for two years.

The Leninsky District Court, the city of Tambov, established that R. V. Pyatibratov, as the head of the Company, received a loan by submitting to the bank intentionally misleading information about the economic situation and the financial condition of the Company. R.V. Pyatibratov deliberately, for the purpose of obtaining personal benefit, to create conditions for the implementation of his criminal intent, produced fictitious financial and economic documents on behalf of fake organizations that do not carry out any activities, including sales contracts and consignment notes. Using the provided fictitious documents containing deliberately false information about the number of goods and materials, R. V. Pyatibratov, as the head of the Company, and the Bank signed a loan agreement for a period of 24 months, according to which the Bank transferred credit funds to the Company's settlement account in the amount of RUB 4 mln. The court qualified the actions of R. V. Pyatibratov and found him guilty only of committing a crime under Part 1 of Article 166 of the Criminal Code and sentenced him to two years in prison.

Neither the disposition, nor the notes to the articles of Chapter 22 of the Criminal Code define the concept of "economic situation or financial condition of an entrepreneur or an organization." According to the definitions given in the legal studies, the following concepts can be considered as:
- economic situation is a set of internal and external data characterizing the civil and economic status of an entrepreneur or an organization, their production capabilities, partnerships, and economic activity;
- financial condition is the economic condition of an entrepreneur or an organization, expressed in monetary terms based on the analysis of information about their financial results, property, business transactions, liabilities and the ratio of assets to liabilities.

As the judicial practice shows, in cases of loan frauds, the information about the economic situation or financial condition of an entrepreneur or organization can be found in:

1) Charter documents of the organization with fragments of false information or charter documents completely falsified by the borrower;

2) Financial statements (balance sheet, statement of financial results and their annexes) that contain false information about the financial position of the organization or are completely false;

3) A technical and economic substantiation of the need for a loan that contains completely or partially inaccurate data on the purpose of the loan, the timing of transactions at the expense of the lender, sources and timing of repayment, and the planned income;

4) fake agreements (contracts) for the proposed transaction, presented as justification for the requested credit funds (for example, on the procurement and delivery of products, the provision of services, and work performance);

5) fake and falsified documents that act as security for loan repayment (a pledge agreement, a surety agreement, guarantees, and an insurance agreement).

Ch. was found guilty of two crimes under Part 1 of Article 176 of the Criminal Code: receiving a loan by the head of the organization by providing the bank with intentionally misleading information about the economic situation and financial condition of the organization that caused large-scale damage. Namely, under the circumstances specified in the verdict, as the general director of Company A, to receive loans, he provided to Bank U the balance sheet of his Company for the period up to June 30, 2007 containing inaccurate information about the economic situation and financial condition of Company A. After that, on the basis of inaccurate information provided by Ch., the bank’s employees made a decision on granting two loans to Company A in the amount of RUB 20 mln (September 5, 2007) and RUB 10 mln (November 1, 2007). Due to the financial insolvency of Company A, the amount of the loans not returned to the bank estimated: for the first loan—RUB 18 mln, and the second—RUB 9,710,000.

One cannot classify as deliberately misleading the information about the economic situation or financial condition of an entrepreneur or an organization, as well as the information provided by a borrower to a bank or other lender about his honesty, decency and business reputation, timely repayment of previously received loans, because due to the constructive elements of the

disposition of Part 1 of Article 176 of the Criminal Code this information does not constitute the content of the objective side of the crime in question.

The corpus delicti of a loan fraud provided for by Part 1 of Article 176 of the Criminal Code occurs only in case of large-scale damage. According to the note to Article 170 of the Criminal Code, large-scale damage is the damage in the amount exceeding RUB 2,250,000. Legal experts have different opinions on the concept of large-scale damage in relation to a loan fraud. Some authors believe that the amount of damage is made up directly of the amount of credit received and accrued interest. Others believe that according to Part 1 of Article 176 of the Criminal Code the damage denotes losses in the sense in which this term is used in clause 2 of Article 15 of the Civil Code, namely, the real damage caused by the crime and loss of profit. The third group believes that large-scale damage is an assessment category, which should include all socially dangerous consequences of a loan fraud for the lender: the risk of bankruptcy of the creditor organization, violation of its normal operation, including scuttling unplanned transactions, reducing financial turnover, forced tax evasion, failure to fulfill other obligations, and the need to make a forced staff reduction Finally, the fourth group claims that the damage caused to the creditor by not repaying a loan constitutes an offense under Article 177 of the Criminal Code "Deliberate evasion of the repayment of debts". They propose to abandon the material structure of the corpus delicti of a loan fraud, but focus on such a crime element as a large loan amount.

The concept of large-scale damage due to a loan fraud is directly related to another issue—the moment of crime completion. Since a legal fraud is directly associated with socially dangerous consequences, most authors link the completion of the crime with the moment when the damage was done to the creditor. However, the theory of criminal law and judicial practice define the moment of causing large-scale damage differently: 1) from the date of loan repayment; 2) before the loan repayment date: after the termination of loan repayments; after the debtor is declared bankrupt; 3) from the date of receiving a loan and crediting it to the borrower's settlement account; 4) after the completion of bankruptcy

proceedings, when the creditor's claims remained unsatisfied; 5) the combination of several approaches to determining the moment when large-scale damage was inflicted to the creditor.

Due to the inconsistency of the above judgments, it is worth mentioning the position of the Supreme Court of the Russian Federation on large-scale damage due to a loan fraud and the moment of crime completion, since it is mandatory for courts considering criminal cases under Article 176 of the Criminal Code. This position unites several fundamental principles:

1. A loan agreement between the lender and the borrower, the concept of which is defined in Article 819 of the Civil Code, is connected with risks. Risk is understood, first of all, as the probable loss by the bank of part of its financial resources, receiving less income or additional costs for lending. This concept also includes the risks associated with criminal actions of the borrower—the illegally receipt of a loan by an entrepreneur or a company's head;

2. A situation when the creditor bank takes unaccounted credit risk, due to an unsecured loan; it threatens the interests of creditors and depositors, and this, in turn, is the damage (risk) for the bank stated by the legislation in the disposition of Article 176 of the Criminal Code;

3. Disposition of Article 176 of the Criminal Code and its title itself (the illegal receipt of a loan), implies that a loan should be repaid to a bank; therefore, the arguments that this crime should be considered completed from the moment when the loan should be covered are not based on law. Moreover, even the full repayment of a loan by an unscrupulous borrower does not preclude criminal liability for its illegal receipt.

Considering the above provisions, the Supreme Court of the Russian Federation formulated two important conclusions:

- The objective side of the crime provided for in this article is the unlawful receipt or granting of a loan to a borrower, but not the failure to repay it or satisfy accounts payable, as provided for in another article of the Criminal Code;
- When determining the moment of crime completion under Article 176 of the Criminal Code, neither the fact of satisfaction of the accounts payables, nor

repayment of the entire loan, which can be very long, will have legal bearing, but the time of the damage, that is, when the bank issued the funds to the unscrupulous borrower (that is, the date of transferring the sum to the borrower's account).

Large-scale damage is a mandatory element of the objective side of the crime under Part 1 of Article 176 of the Criminal Code, and this is the difference between a criminal offense and an administrative offense. Article 14.11 of the Administrative Code of the Russian Federation establishes administrative liability for an illegal receipt of a loan or preferential credit terms by providing the bank or other lender with deliberately false information about its economic situation or financial condition. The legal liability established in this article as well as the liability provided for in Article 176 of the Criminal Code, applies to the act when the guilty person provides the creditor with deliberately misleading information about the economic situation or financial condition of an entrepreneur or organization not with the purpose of embezzlement of funds, but with the purpose of receiving a loan or preferential terms of credit and intends to fulfill contractual obligations. As many authors justly point out, the only element distinguishing a crime from an administrative offense of a similar nature is the presence or absence of large-scale damage as a socially dangerous consequence of these actions. In case of large-scale damage, that is, when the damage exceeds the amount of RUB 2,250,000, the guilty person is prosecuted for illegally receiving a loan under Article 176 of the Criminal Code. If the damage is less than the specified amount, the person is found administratively liable under Article 14.11 of the Administrative Code. It should be noted that if the borrower has the intention to use the money for his own benefit or the benefit of third parties and has no intention to return it, such actions are qualified under Article 159.1 of the Criminal Code as a loan fraud. Courts adhere to this position in their work.

By the verdict of the Essentuki City Court of the Stavropol Territory, V. V. Cheremushkina was convicted under Part 1 of Article 176 of the Criminal Code: as an individual entrepreneur, aiming to illegally receive

a loan, on February 17, 2009, she provided deliberately false information about her financial condition to the additional office of the Stavropol regional branch of the Bank, and the Bank granted a loan based on this information. In her cassation appeals, the convict and her counsel asked to cancel the verdict and to acquit her due to the lack of corpus delicti in her actions, terminating the case on the basis of clause 2 of Part 1 of Article 24 of the Code of Criminal Procedure. The Judicial Chamber on Criminal Cases of the Stavropol Regional Court, after studying the case materials, discussing the arguments of the cassation appeals, overturned the verdict of the city court. In its decision, the Judicial Chamber on Criminal Cases of the Stavropol Regional Court stated: since the loan amount did not exceed the sum of large-scale damage indicated in the note to Article 169 of the Criminal Code in force at the moment when V. V. Cheremushkina received a loan, her actions to receive a loan by providing deliberately misleading information about the economic situation and financial condition did not cause large-scale damage to the bank. Therefore, such actions do not constitute a crime under Part 1 of Article 176 of the Criminal Code, and they contain elements of an administrative offense under Article 14.11 of the Administrative Code.

The objective side of the corpus delicti, provided for in Part 2 of Article 176 of the Criminal Code, is connected with an illegal receipt of a state special-purpose loan, as well as its use for other purposes, if these acts caused large-scale damage to citizens, organizations or the state. Thus, the objective side of the crime in question includes two alternative socially dangerous acts: 1) the illegal receipt of a state special-purpose loan; 2) the use of the state special-purpose loan not for its intended purpose.

A state special-purpose loan is a loan issued on behalf of the state by the Central Bank of the Russian Federation for the implementation of targeted programs. It is a loan in the form of cash or things that is repaid with interest that has some generic characteristics, for instance, provision of various benefits. State special-purpose lending (grounds, procedure for granting loans, and the terms of their repayment) is carried out

within the public law and is regulated by the Budget Code, the Tax Code, laws on the budget, and some legal acts regulating budget relations. A budget loan and an investment tax loan are types of state special-purpose loans.

According to Article 5 of the Budget Code, a budget loan is funds provided by the budget to another budget within the budget system of the Russian Federation, to a legal entity (with the exception of state (municipal) institutions), a foreign state, a foreign legal entity on a repayable and reimbursable basis. Article 93.2 of the Budget Code states that: 1) a budget loan can be granted on the basis of an agreement concluded in accordance with the civil legislation of the Russian Federation, on the terms and within the budget appropriations that are provided for by relevant laws (decisions) on the budget; 2) when the budget is approved, the government establishes objectives for which a budget loan can be granted, as well as the terms and procedures for granting budget loans, budget allocations for their granting for a period within a financial year and for a period beyond the financial year, as well as restrictions on recipients (borrowers) of budget loans; 3) a budget loan can be granted only if the borrower provides security for fulfilling their obligation to repay the specified loan, paying the interest and making other payments stipulated by the relevant agreement (contract); 4) only bank guarantees, sureties, state or municipal guarantees, property pledge in the amount exceeding 100% of the granted loan can be a surety bond of a legal entity, or a municipality that guarantees the repayment of a budget loan, paying interest and making other payments stipulated by law and (or) an agreement; 5) a prerequisite for granting a budget loan to a legal entity is a preliminary evaluation of the financial condition of the legal entity—the recipient of the budget loan, its guarantor or co-borrower, as well as their consent to the inspections by the authorized body to check that the recipient of the budget loan complies with the terms, goals and procedure for its provision.

According to Article 66 of the Tax Code of the Russian Federation, investment tax credit represents such a change in the tax payment deadline, when the entity, if there are statutory grounds, is given an opportunity, to reduce its tax payments with subsequent

phased payment of the loan amount and accrued interest within a certain period and within certain limits. Investment tax credit can be granted for a period of one year to five years, and in some situations—for a period of up to ten years. Article 67 of the Tax Code states that an agreement on an investment tax credit should provide for a procedure for reducing payments on the corresponding tax, the loan amount (indicating the tax for which the organization is granted an investment tax credit), the term of the agreement, the interest on the loan amount, the procedure for timely loan repayment, not exceeding the period for which, in accordance with the agreement, an investment tax credit is granted, the procedure and maturity of accrued interest, an indication of the method for securing the obligation and liability of the parties.

The use of state special-purpose credit for other purposes (misuse) is disclosed in Article 306.4 of the Budget Code. It is understood as the allocation of budgetary funds within the budget system of the Russian Federation and payment of monetary obligations for purposes that do not fully or partially meet the goals defined by the law (decision) on the budget, consolidated budget quarterly breakdown, budget quarterly breakdown, budget estimate, contract (agreement) or another document acting as the legal basis for the provision of these funds.

The research results and the analysis of judicial practice for crimes under Part 2 of Article 176 of the Criminal Code indicate that the subject of the illegal receipt of a state special-purpose loan is, as a rule, a budget loan. In this case, the method of committing a crime is the submission of deliberately misleading information about the right to receive a budget loan or its use for other purposes. The state represented by the subjects of the Russian Federation, from the budgets of which budget loans are granted, are recognized the victim in such cases. Judicial practice also shows that under Part 2 of Article 176 of the Criminal Code (the illegal receipt of a state special-purpose loan) the persons who illegally receive special-purpose loans in banks as part of programs to support various types of economic activity are brought to justice.

By the verdict of the Khasavyurt City Court of May 17, 2012, A.S., the head of Nasip Company, was found

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guilty under Part 2 of Article 176 of the Criminal Code. It follows from the verdict that A.S., as the head of Nasip Company, with a criminal intent, prepared fictitious documents for entrepreneurial agricultural activities and on May 21, 2010 concluded an agreement with the Russian Agricultural Bank on receiving a state special-purpose loan in the amount of RUB 15 mln for the purchase of equipment and feed manufacturing. On May 31 A.S. received the specified amount in his account in Khasavyurt, cashed it and used it for other purposes, spending it on personal needs, which caused large-scale damage to the state in the amount of RUB 15 mln.

The crime provided for by Part 2 of Article 176 of the Criminal Code is completed from the moment of causing large-scale damage to citizens, organizations or the state, the size of which should exceed, according to the note to Article 170 of the Criminal Code, RUB 2,250,000. Such damage may be caused to the creditor in case of default on obligations under the loan agreement, that is, upon non-repayment of a loan or the interest. Judicial practice shows that the absence of socially dangerous consequences or compensation for damage caused to a citizen, organization or the state due to the committed crime is the reason for terminating the criminal prosecution or the court acquittal.

The Judicial Chamber on Criminal Cases of the Samara Regional Court did not change the acquittal verdict of the Isaklinsky District Court of the Samara region for G. G. Abramova. As can be seen from the case file, the preliminary investigation bodies charged G. G. Abramova with the fact that, as the director general of a company, according to the results of the competition, it received a budget loan for organizing pork production in the amount of RUB 2,902,393. This amount should have been spent on the construction of a mini-feed workshop and the acquisition of young animals, but was not spent for its intended purpose. The act provided for in paragraph 2 of Article 176 of the Criminal Code is defined as using the state special-purpose loan for other purposes, that is, spending a state budget loan not in accordance with the intended purpose, or misuse of the state budget loan. A mandatory attribute that characterizes this element of the corpus delicti is the consequence, namely the

infliction of large-scale damage to citizens, organizations or the state. Consequently, this crime is completed from the moment the consequences occur. As can be seen from the materials of the case, the company headed by G. G. Abramova repaid the entire loan before the loan repayment deadline. Thus, no material damage to the state was caused by the actions of the head of the company. In addition, the allegations by the prosecution that the funds had not been used for their intended purpose did not correspond to the circumstances established in court. Under such conditions, the Judicial Chamber on Criminal Cases recognized the court verdict of the acquittal of G. G. Abramova committing the act under Part 2 Article 176 of the Criminal Code legal and reasonable due to the lack of corpus delicti in her actions.

The subjective side of the crime under Article 176 of the Criminal Code implies intentional guilt in the form of direct intent without a selfish purpose. The culprit is aware of the social danger of their actions, that is, receiving a loan or preferential credit terms by submitting to the creditor deliberately misleading information about their economic situation or financial condition, anticipates the possibility or inevitability of socially dangerous consequences in the form of large-scale damage to citizens, organizations or the state and wishes them to occur.

Legal experts have different opinions on the content of the subjective side of the crime provided for by Article 176 of the Criminal Code. Some authors believe that regarding the damage caused by non-repayment of a loan, only indirect intent is possible (otherwise, with direct intent, the act is a fraud), and in case of default on the loan interest we can talk about direct intent. At the same time, it is believed that the intent can be direct if the damage is caused by non-repayment of the loan within the time period specified in the agreement, whereas the borrower actually intends to repay the loan. Others believe that guilt in this crime can be both in the form of intent and in the form of negligence. In this case, direct intent can take place only if a person acquires preferential credit terms by deception (if the preference is connected with the price of the loan).

In case of a loan fraud, the offender intends to receive a loan or preferential credit terms without a selfish

purpose, that is, without the intention of free circulation of funds for their benefit or the benefit of third parties. Moreover, intent can only be direct. Firstly, because the prerequisite for recognizing an act as a crime is the receipt of a credit by providing **deliberately** misleading information about the economic situation or financial condition of an entrepreneur or organization, which is the basis for issuing a loan, and causing large-scale damage to a bank or other lender as a result of these actions. Secondly, fraud as a way of illegally receiving a loan may consist **solely** in deliberate communication (submission) of knowingly false, incorrect information aimed at misleading the creditor. Finally, the foresight and desire to achieve a criminal result (to receive a loan) are present both at the time of knowingly giving false information about the economic situation or financial condition, and after the lender issued money to an unscrupulous borrower. A different approach would contradict the legal meaning of Article 176 of the Criminal Code, since the ban established by this norm under the threat of criminal punishment was originally aimed at preventing the receipt of a loan by providing deliberately misleading information, that is, the reason for granting a loan, whereas the criminal law does not connect the corpus delicti of this crime with violating the terms of the loan repayment or the timing of interest payments by the person who had received a loan.

If there is a lucri causa, the act should be considered a fraud and qualified according to Article 159.1 of the Criminal Code. The ruling of the Supreme Court of the Russian Federation states that the actions of the borrower that include receiving cash or non-cash funds by submitting to the bank or other creditor deliberately false and (or) inaccurate information for gratuitous transfer of funds for their own benefit or the benefit of third parties with the intention not to return this money in accordance with the agreement terms should be qualified under Article 159.1 of the Criminal Code.

Therefore, the main difference between receiving a credit illegally and a credit fraud, as noted by many authors, is expressed in the subjective aspect of the crime: 1) if the person intends to steal the illegally received credit, the deed should be qualified under Article 159.1 of the

Criminal Code; 2) if the person intends to use the illegally received credit for the purpose of entrepreneurial and other economic activity and its subsequent repayment, and if there is large-scale damage, the deed is qualified under Article 176 of the Criminal Code.

Given the complexity of distinguishing between the illegal receipt of a credit and a credit fraud, the Plenum of the Supreme Court of the Russian Federation in its resolution draws the attention of the courts to the fact that in cases where a person receives another's property or acquires the right to it, without intending to fulfill obligations associated with the terms of granting the indicated property or the right to him, as a result of which the victim suffers material damage, the offense should be qualified as a fraud, if the person had had such an intent before stealing another's property or taking the right over it. The resolution states that the following circumstances may indicate the presence of such intent: 1) when a person is deliberately unable to fulfill the obligations of the agreement terms; 2) when concluding the agreement, a person uses forged documents, including identity documents, statutory documents, letters of guarantee, or certificates; 3) when a person conceals information about debts and collateral of property; 4) when a person uses the received property for personal purposes contrary to the terms of the agreement. Reviewing decisions of lower courts, higher courts strictly adhere to the instructions of the Supreme Court of the Russian Federation on judicial practice in cases of the illegal receipt of a credit and a credit fraud.

The verdict of the Naberezhnye Chelny City Court of May 27, 2011 found A. V. Farafontov guilty and convicted him under Part 4 of Article 159 of the Criminal Code to four years in a general penal colony. The verdict stated that A. V. Farafontov, as the director of Orenburgsky Company, with lucri causa, by deceit and breach of trust, having provided deliberately misleading information that the company had property on pledge, received money from the Leasing Company in the amount of RUB 45 mln that he stole. A. V. Farafontov used the money at his discretion by transferring it to the accounts of TPO and Spetsavtotsentr companies, which he actually headed. The cassation ruling of the Judicial

Chamber on Criminal Cases of the Supreme Court of the Republic of Tatarstan of August 19, 2011 upheld the court sentence. The Presidium of the Supreme Court of the Republic of Tatarstan, changing earlier court decisions, indicated that the mere fact of the convict providing false information about the availability of property on pledge did not yet constitute a fraud, since in this case the convict intended to receive a loan for the purchase of motor vehicles and spare parts. According to the testimony of the convict, he was going to repay these loans, which, in particular, was confirmed by the official letters available in the case file with a request to extend the loan repayment period due to the difficult financial situation of the enterprise, as well as partial repayment of interest on the loan. By implication of law, if the head of the organization, when receiving a loan or a credit, provides deliberately false information about the economic situation or financial condition of the company, but is not going to appropriate the received loans for their own benefit or for the benefit of third parties, this does not constitute a fraud, as there is no intent to steal the funds, but the person intends to illegally receive a loan by misleading the lender. Under these circumstances, due to the lack of intent to steal the funds, the offense cannot be qualified under Part 4 of Article 159 of the Criminal Code, as these actions must be qualified according to a special norm—Part 1 of Article 176 of the Criminal Code, as an illegal receipt of a credit.

The subject of a criminal offence provided for by Part 1 of Article 176 of the Criminal Code is an entrepreneur or the head of the organization. On the other hand, according to the provisions of the budget and tax laws, the subject of a crime under Part 2 of Article 176 of the Criminal Code can only be the head of the organization who illegally received a state special-purpose loan or used it for other purposes, causing large-scale damage to citizens, organizations or the state.

It should be noted that the subject of a crime under Part 2 of Article 176 of the Criminal Code cannot be officials receiving budget funds, that is, heads of state bodies, local self-government bodies who have the right to take on and (or) fulfill budgetary commitments on behalf of public law entities, as well as

heads of state (municipal) institutions providing state (municipal) services, perform work and (or) perform state (municipal) functions, the financial support of which is carried out at the expense of the corresponding budget through budget estimates (Article 6 of the Civil Code). According to A. Ya. Asnis, this circumstance is connected with the fact that Article 285.1 and Part 2 of Article 176 of the Criminal Code provide for elements of crimes clearly distinguished by two defining, core criteria: the addressee of the budget funds and the subject of the crime. In the corpus delicti under Article 285.1, this addressee is a state body, local government, state or municipal institution, the Armed Forces of the Russian Federation, other troops and military units of the Russian Federation, whereas the subject is an official. In the corpus delicti provided for in Part 2 of Article 176, it is another organization—a legal entity or an individual, the head of the organization or an entrepreneur. Therefore, in cases of the illegal receipt of a state special-purpose loan and its use for other purposes, these heads, depending on the offence, bear criminal liability under Article 285 of the Criminal Code, for abuse of power, or under Article 286 of the Criminal Code, for exceeding authority, and under Article 285.1 of the Criminal Code for misuse of budget funds, provided that the amount of budget funds spent exceeds RUB 1,500,000. In cases where this person, due to the abuse of power or exceeding the authority, has added deliberately misleading information or corrections into official documents distorting their original content, the offense must be additionally qualified under Article 292 of the Criminal Code.

Given the disposition of Article 176 of the Criminal Code, the subject of the crime is the borrower—an entrepreneur or the head of an organization. In this regard, individuals who are not entrepreneurs but who have provided the bank or another lender with deliberately false information in order to receive a loan cannot be the subjects of the crime in question. Depending on their actions, they can be qualified according to Articles 159, 159.1 or Article 165 of the Criminal Code. The borrower, as noted in the resolution of the Plenum of the Supreme Court of the Russian Federation of November 30, 2017 No. 48 “On judicial practice in

cases of fraud, misappropriation and embezzlement", is a person who has applied to the creditor with the intention to receive, who is receiving or has received a loan in the form of cash in their own name or on behalf of a legal entity represented by him legally. The legal evaluation of the committed act depends on the borrower's legal status in the illegal receipt of a credit. For instance, if no legal entity was concerned (not registered or liquidated), and the perpetrator only presented deliberately forged documents with details of a nonexistent organization to the creditor in order to receive a loan or when the borrower is a person who has obtained his borrower status from the forged documents in the name of another person, the guilty person is not a special subject—the borrower—and their actions cannot be qualified as a criminal act in the field of lending. Depending whether there was an intent of a theft or not, the offence should be qualified according to Article 159 of the Criminal Code as a fraud, that is, a theft of another's property or acquisition of the right to another's property by a fraud and breach of trust, or under Article 165 of the Criminal Code as causing property damage through fraud or breach of trust without elements of theft. In its directives, the Plenum of the Supreme Court of the Russian Federation indicates that in cases where, for the purpose of the embezzlement of funds, a person, for example, pretended to be someone different by presenting another's passport when applying for a loan, either acted on forged documents on behalf of a non-existent individual or legal entity, or used other persons who were not aware of his criminal intentions to receive a loan, there are no grounds for qualifying the offense under Article 159.1, and the culprit is liable under Article 159 of the Criminal Code. The analysis of court decisions shows that most courts are guided by this provision.

By the verdict of the court, T. was found guilty of committing fraud, namely, that he, together with unidentified persons, stole funds belonging to Bank A and Bank B, by providing the Banks with deliberately false documents about his identity and place of work, which allowed him to receive consumer loans. In the appeal, T. disagreed with the qualification of his actions, indicating that his intent was exclusively aimed at committing a crime

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in the field of credit relations, which was also confirmed by the actual circumstances of the act. T. believed that his actions should be requalified into Part 1 of Article 159.1 of the Criminal Code. The Judicial Chamber on Criminal Cases of the Moscow City Court, having studied the case file and having discussed the arguments given in the appeal, found that the convict's arguments about the need to qualify his actions under Part 1 of Article 159.1 of the Criminal Code contradicted the provisions of criminal law. According to the disposition of Article 159.1 of the Criminal Code, fraud is in the field of lending, if it is committed directly by the borrower, that is, a person who has legitimately applied to a credit institution for a loan. No such circumstances were established in the case, on the contrary, as the court found during the trial, and it follows from the charges, T. applied to the banks using forged documents, pretending to be a different person, and was not a borrower in this connection in accordance with the law. Given the foregoing, the crimes committed by the convicted person cannot be regarded as the ones committed in the field of lending.

4. Conclusion

The results of the criminal law analysis regarding the criminal defense of public relations in the field of lending and the practice of its application can be summarized as follows:

1) Criminal liability for the illegal receipt of a credit is aimed at protecting the entire complex of social relations in the field of lending and is a prerequisite for eliminating the threat to the further development of civilized market relations in Russia. The subject of the crime provided for in Article 176 of the Criminal Code is the credit itself, preferential credit terms, and state special-purpose loans;

2) The illegal receipt of a credit is an unlawful act connected with deceiving a bank or other lender. Deception consists in presenting to the creditor deliberately false or inaccurate information about the economic situation or financial condition of an entrepreneur or organization with the aim of misleading them and obtaining a loan;

3) The objective side of the crime under Article 176 of the Criminal Code consists in illegally receiving/issuing a loan to a borrower, but not failure to repay it or evading repayment of payables. Therefore, to determine the moment of the crime completion, the fact that the repayment of the payables

stopped and the fact that the loan payment period has expired do not have legal bearing—it is the time of the damage, that is, when the bank issued the funds to the unscrupulous borrower;

4) The presence of large-scale damage is a mandatory element of the objective side of the crime under Part 1 of Article 176 of the Criminal Code, which makes it possible to distinguish between a criminal offense and an administrative-legal delict;

5) The subjective side of the crime under Article 172 of the Criminal Code is characterized by intentional guilt in the form of direct intent without a selfish purpose. The presence of direct intent is indicated by: 1) obtaining a loan by providing knowingly false information about the economic situation or financial condition of the borrower; 2) a conscious communication (presentation) of deliberately false information aimed at misleading the creditor; 3) foresight and desire to achieve a criminal result (the receipt of a loan);

6) The main difference between the illegal receipt of a credit and a credit fraud is reflected in the subjective side of the crime, namely, the intent of the perpetrator: 1) if the intent of the person is aimed at embezzlement of money, the act can be qualified under Article 159.1 of the Criminal Code; 2) if the person intends to use the illegally received loan for entrepreneurial and other economic activities, the act can be qualified under Article 176 of the Criminal Code;

7) According to the disposition of Article 176 of the Criminal Code, the subject of the crime is the borrower—an entrepreneur or the head of an organization. In this regard, individuals who are not entrepreneurs and who provided the bank or other lender with knowingly false information in order to receive a loan cannot be the subjects of the crime in question. Similarly, persons pretending to be others, representing someone else's passport when applying for a loan, or acting on forged documents on behalf of a non-existent individual or legal entity, cannot be the subject of the illegal receipt of a credit.

References

Balyabin, V. N. (2006). Criminal liability for a loan fraud: Author's abstract of the Dissertation of a Candidate of Legal Sciences. Moscow.

Volzhenkin, B. V. (2007). Economic Crimes under the Criminal Law of Russia. St. Petersburg: Yuridichesky Tsentr Pres.

Volkov, I. K. (2004). A loan fraud: criminal law and criminological characteristics: Dissertation of a Candidate of Legal Sciences. Rostov-on-Don.

Gladkikh, V. I. (2015). Some issues of qualification and application of the norm of liability for a loan fraud. Russian Investigator, 3, 26-32.

Klepitsky, I. A. (2005). System of Economic Crimes. Moscow: Statut.

Commentary on the Criminal Code of the Russian Federation. (2010). (Ed.) A. Chuchaev, 2nd ed., revised and amended. Moscow: Infra-M, Contract.

Koshaeva, T. O. (1998). Crimes in the field of economic activity (brief commentary on the articles of the Criminal Code of the Russian Federation). Law and Economics, 6, 91-93.

Lapshin, V. F. (2003). On the implementation of the provisions of Article 176 of the Criminal Code of the Russian Federation. In Pressing Issues of Differentiation of Responsibility and Legislative Methods in Criminal Law and Process. Collection of Scientific Articles. Yaroslavl: Publishing House Yaroslavl University, pp. 84-99.

Larichev, V. D., Abramov, V. Yu. (1998). Problems of improving the criminal law related to creditors rights' protection. State and Law, 8, 98-103.

Leshina, T. E. (2005). The subject of criminal offence of budget funds misuse. Financial Law, 10, 30-34.

Lopashenko, N. A. (2006). Economic Crimes: The Author's Commentary on the Criminal Law (Section 8 of the Criminal Code of the Russian Federation). Moscow: Volters Clover Publishing House.

Lukyanov, V. A., Masharov, G. S. (2005). Some issues of qualification of credit crimes. Banking Law, 6, 22-24.

Lyaskalo, A. N. (2014). Interpretation of blanket elements Article 176 of the Criminal Code. Criminal Law, 6, 56-64.

Lyaskalo A.N. (2014). Socially dangerous consequences of illegal obtaining a loan. Legality, 10, 36-42.

Naumov, A. V. (2006). Application of the Criminal Code of the Russian Federation: Commentary on Judicial practice and Doctrinal Interpretation. Moscow: Volters Clover Publishing House.

Nudel, S. L. (2015). Specifics of credit fraud qualification. Russian Investigator, 7, 42-46.

Pashintseva, U. V. (2008). The objective side of a loan fraud (Part 1 of Article 176 of the Criminal Code of the Russian Federation). Russian Investigator, 4, 11-13.

Petrukhina, O. A. (2011). The concept of state special-purpose credit as a subject of a crime under Part 2 of Article 176 of the Criminal Code. Proceedings of the Tula State University, Economic and Legal Sciences, 2(2), 160-164.

Resolution of the Plenum of the Supreme Court of the Russian Federation of November 30, 2017 N 48 “On judicial practice in cases of fraud, misappropriation and embezzlement”. (2018). Bulletin of the Supreme Court of the Russian Federation, 2.

Rusanov, G. A. (2011). Economic Crimes: A Textbook. Moscow: Prospekt.

Sapozhkov, A. A. (2002). Credit offenses. A loan fraud and malicious evasion of satisfaction of accounts payable. St. Petersburg: Yuridichesky Tsentr Pres.

Selivanovskaya, Yu. I. (2009). Controversial issues of criminal liability for a credit fraud. Advances in Current Natural Sciences, 4, 15-17.

Shadrina, O. V. (2008). Criminal liability for banking and credit crimes under the criminal law of the Russian Federation. Dissertation of a Candidate of Legal Sciences. Moscow