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White-Collar Crime Sentencing in the Russian Federation

Ivan Kleimenov[1], Gorazd Meško[2]

The paper presents criminological perspectives on white-collar crime in general, followed by criminal justice perspectives on investigating white-collar crime, i.e. unlawful acts committed by respected and high-social-status individuals while performing their duties in Russia. Findings of a study conducted in 2018, which comprised official court statistics and case studies from criminal courts, are summarized. The findings imply that the approach to white-collar criminal cases is similar to the one found in the literature on critical criminology (i.e. complexity of white-collar crimes, links between white-collar criminals and other influential people, leniency of criminal courts towards white-collar criminals and procedural reasons for acquitting white-collar offenders). The authors suggest some improvements for the investigation of such crime, as studies on criminal investigation show that the police are quite successful in investigating property and violent crimes, while the development of methods for the investigation of white-collar crime remains challenging. Another implication arising from this study is that social elites influence the adoption of criminal legislation, which is less efficient in terms of formal social control of white-collar criminals.

Keywords: white-collar crime, sentencing, Russia, case studies

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1 Introduction

The problem of crime committed by the powerful and the resulting responsibility (or, to use a better term, the lack of responsibility) for such crime has been known since ancient times. Aulus Gellius referred to the following utterance made by Marcus Porcius Cato: "*Thieves of private property pass their lives in chains. Thieves of public property in riches and luxury.*" (Gellius, 2008: 38).

Equally, the answer to the question "why" is quite clearly formulated. The early Christian Church Father, Saint Cyprian of Carthage, wrote: "There is no fear about the laws; no concern for either inquisitor or judge; when the sentence can be bought off for money, it is not cared for. It is a crime now among the guilty to be innocent; whoever does not imitate the wicked is an offence to them. The law have come to terms with crime, and whatever is public has begun to be allowed. What can be the modesty, what can be the integrity, that prevails there, when there are none to condemn the wicked, and one only meets with those who ought themselves to be condemned?" (Saint Cyprian of Carthage, 2008: 39). Crime among the elite (who used to be called purple togas, and recently white or pearl collars, while female white-collar criminals are also referred to as pink-collar criminals) has existed from the earliest times. The public danger of such crimes results in undermining the institution of power as a tool for public improvement and, ultimately, the survival of society (Payne, 2013)Note that the idea of social survival was at the centre of attention of "thinking civilizations," to which one can rightfully attribute to Ancient Greece, which has given the world many wisdom lovers, i.e., philosophers. Thus, in the ideal polis state of Plato, the precise number of 5040 citizens is determined, among other things, based on the number of soldiers able to protect the state from enemies (Plato, 354 BC). This idea is becoming ever more relevant today for many states whose elites are so focused on their personal enrichment that they stop thinking about state security, even though it is only state security that can guarantee their personal security.

In the criminal code of the Russian Federation, there is no concept of elite crime. In the Russian context, this concept should go beyond the purely juridical and be recognised as a sociological and criminological phenomenon, since crime among the elites is a genuine social problem. In this respect, it may be appropriate to quote the following aphorism: "Criminal science studies criminals who are losers. Successful criminals are studied by political science." (Citaty izvestnyh ličnostej, 2019). Obviously, due to the lack of understanding

[1] Ivan Kleimenov, Ph.D., Professor, Department of Constitutional and Administrative Law, National Research University - Higher School of Economics, Russia. E-mail: piligrim111@mail.ru

[2] Gorazd Meško, Ph.D., Professor of Criminology, Faculty of Criminal Justice and Security, University of Maribor, Slovenia. E-mail: gorazd.mesko@fvv.uni-mb.si

of the existence of elite crime, crime prevention may be reduced either to class struggle, against loser criminals, or to simulation, against elite criminals.

American sociologist Edward Alsworth Ross, writing in the early twentieth century, called "respectable" criminals "criminaloids" and said: "Today, the villain most in need of curbing is the respectable, exemplary, trusted personage who, strategically placed at the focus of a spider web of fiduciary relations, is able from his office chair to pick a thousand pockets, poison a thousand sick, pollute a thousand minds, or imperil a thousand lives. It is the great-scale, high-voltage sinner that needs the shackle." (Ross, 1907: 29–30).

The approach proposed by Ross (1907) was well ahead of its time, and the sociologist unsuccessfully urged to pay attention to the public danger of a "respectable" criminal. Three decades had passed before other scholars turned to the problem of crimes committed by representatives of the upper class. Although, unlike Ross, his followers left a more substantial legacy (Sheley, 2003).

Sutherland, who is considered an elder statesman of American criminology, made a generally recognised contribution to the development of the problem of economic crime from the sociological perspective. He was convinced that many so-called respectable citizens, representatives of the upper class, very often turn out to be criminals. Due to the unequal response to the criminal activities of the upper and lower classes, the crimes of the powerful often remain out of public view, but this does not make them any less dangerous. Defining white-collar crime as "a crime committed by a person of high social status and respectability in the course of his occupation", Sutherland asserted that the financial damage it causes is several times greater than the damage caused by all other types of crime (Sutherland, 1949: 9). However, financial damage, despite its exceptional extent at times, is not nearly as serious as the harm that such offences cause to social relations. According to the authors, white-collar crimes are associated with [a betrayal] of trust and, therefore, lead to mistrust, which deteriorates moral values in society and contributes to social disorganisation (Sutherland & Schur, 1977: 143–144).

Sutherland was the first to use the concept of "white-collar" crime while addressing the American Sociological Society (of which he was the President) in 1939 (Sutherland, 1940). He emphasises that the definition of "white-collar" crime devised by him does not apply to those crimes committed by upper-class representatives that do not relate to their professional activities (murder, rape, acts of violence, etc.). It does not apply to the fraudulent schemes contrived by rich representatives of the criminal underground either, as they do not deserve respect and are not high on the social scale (Sutherland, 1949). In his work entitled "Comparative Criminology", criminologist Hermann Mannheim stated: "This definition, no matter how inaccurate or inadequate it is, had at least the merit of clarifying the meaning of the goal set by Sutherland, which was to draw attention to the monumental sphere of criminal behaviour that is usually disregarded." (Mannheim, 1965: 472). He believed that by giving this definition, Sutherland contributed to the science, the significance of which is comparable to the discovery made by Nicolaus Copernicus.

Sutherland's followers and critics tried to correct the proposed approach and improve his definition. James William Coleman described "white-collar" crime as a violation of law committed by a person or group of people in the process of performing a lawful professional or financial activity (Coleman, 1985). Furthermore, Shapiro (1990) proposed an informal definition not related to the status of the criminal that would affect neither the motives the crime itself nor the level of its profitability. She considered the "breach of trust" to be the key concept, which refers to the use of a position based on trust by an agent responsible for the supervision of property, information or property rights. Such actions take place when bankers issue low-interest loans to their friends in the absence of appropriate risk assessment, when audit firms publish optimistic reports on companies on the verge of bankruptcy, and when managers bound by corporate secrets advise a broker or when clerks at service stations steal and sell their customers' credit card numbers, for example.

Such clarifications significantly impoverish and primitivize the central thesis of Sutherland's theory of "respectable" crime. In this respect, John Braithwaite argues that power and influence are the key to the identification, satisfactory systematisation, and explanation of the main issues related to crime and crime control (Braithwaite, 1983: 1466–1468). The criminological white-collar crime definitions, following Sutherland (1949), examined the phenomenon under consideration from the perspective of sociology and criminology and are essential for understanding its essence. Without introducing such definitions into criminal law, it would be impossible to affect the existing practice of white-collar crime prevention and criminal justice response in any way, since the very basis for such activities depends on a clear criminal law definition (or definitions) of white-collar crime. Moreover, it is crucial to study the responses of the criminal justice system to white-collar crime to see whether or not state institutions are able and willing to tackle white-collar crime.

Ferme (2013) emphasises that white-collar crime, as one type of economic crime, causes a great deal of damage, both

materially and socially. From a policing perspective, the conditions required to successfully control such crime include comprehensive, decisive and coordinated participation of all competent state bodies and institutions, among which the police hold a special place. Although prevention of economic crime is a complex and demanding activity, it should be strongly supported by politics and society at large. Kanduč (2015) is critical towards white-collar crime and offenders, and feels that neoliberal globalisation has created catastrophic circumstances (imbued with corruption, violence, plunder, intimidation, blackmail and deception), where the fight between the rich and the poor (i.e. capitalists and workers) is (still) ongoing. He emphasises that criminology cannot be occupied solely by studying crime milled by class-biased criminal justice apparatus when (criminal) legislation is proposed and passed by the rich and powerful. The goal of this paper is to present the Russian context of judicial responses to white-collar crime, organised crime and corruption, and discuss the most salient cases.

2 White-Collar Crime, Organised Crime and Corruption – Russian Criminal Law Perspectives

Since white-collar crime is, in essence, economic crime, Chapter 22 of the Criminal Code of the Russian Federation (hereinafter the Criminal Code), entitled "Crimes in the Sphere of Economic Activity", mainly corresponds to this phenomenon in the criminal law of the Russian Federation. This very chapter imposes liability for crimes, such as money laundering, and criminal offences in the field of taxation and banking. At the same time, several articles contained in this chapter cannot be recognised as purely economic. For example, Article 175 of the Criminal Code, entitled "Purchase or Sale of Property Knowingly Obtained by Criminal Means", which in fact establishes liability for the sale and purchase of stolen goods by a person who did not commit theft, must, by definition, relate to the general and not economic crime (Criminal Code of the Russian Federation [CCRF], 1996).

According to traditional, invariable norms, which have been well established since Soviet times, white-collar crime has economic relations as the main object of criminal infringement (Nikiforov, 1960). In addition, white-collar crime is not merely related to such social relations, but infringes on the economic security of the state, society and individual. The given sequence – state, nation, individual – breaks the usual paradigm of criminal law regulations, where the individual is of top priority. However, this sequence is fundamental for understanding the essence of white-collar crime. Moreover, it is an identifying factor because if a crime causes damage primarily to a specific individual, it must be classified as general. White-collar crime, on the contrary, cause damage principally to the state and society and, consequently, to the individual. For example, phenomena, such as money laundering, the export of capital abroad and smuggling, cause damage to the state. Therefore, white-collar crime should also comprise economic crimes regulated in other chapters of the criminal law that jeopardise the economic security of the state. This may be observed particularly in relation to acts, such as Fraud in the Sphere of Entrepreneurial Activity (Parts 5-7 of Article 159, previously Article 159.4), Misappropriation of State Funds (Article 285.1), Misappropriation of State Non-Budgetary Funds (285.2), Abuse of Power in the Performance of State Defence Order (285.4), and Illegal Participation in Entrepreneurial Activity (Article 289 of the Criminal Code). The attribution of separate crimes contained in the criminal law of the Russian Federation to white-collar crime forms its qualitative aspect (CCRF, 1996).

However, in the Russian context, such crime must be systematic or cause considerable damage to the interests of the state, society and the individual to be considered white-collar crime. If the aforementioned crimes are occasional or very insignificant (in terms of the damage they cause), they can hardly be referred to as white-collar crime. For example, failure to pay taxes by an individual does not constitute a white-collar crime, whereas systematic tax evasion in an amount causing significant damage to public relations indicates the commission of such a crime. Accordingly, when contemplating the potential attribution of specific crimes to white-collar crime, it is necessary to consider their quantitative aspect – the damage they cause, as well as their intensity.

It seems that it is only possible to identify which acts constitute a white-collar crime on the basis of the aforementioned criteria. For example, if a crime encroaches on economic relations by means of violence, it would not be appropriate to classify it as white-collar crime, unless the qualitative criterion is completely disregarded. Such a crime will go beyond the economic provisions of criminal law. On the other hand, a minor or single economic crime does not constitute white-collar crime as well due to the quantitative criterion. In addition, it is also necessary to consider that people with corresponding social capital or status, mainly officials and business people, might be the subject of white-collar crime. Euler circles (which may be constructed for any given triangle) may characterise the proportion of white-collar crime to organised crime and corruption; these phenomena are not identical, but partly overlap with one another. To ensure effective white-collar crime prevention, it is necessary to understand the possibility of such an overlap and give it an appropriate criminal law evaluation.

The problem, however, stems from a lack of clearly understanding all listed phenomena. For example, today in the Russian Federation, there is no criminal law definition of organised crime. There is a legal definition of a criminal community formulated on the basis of the definition provided in the United Nations Convention against Transnational Organized Crime and the Protocols Thereto (United Nations Office on Drugs and Crime, 2004). Thus, Part 4 of Article 35 of the Criminal Code (CCRF, 1996) stipulates that a crime is deemed to be committed by a criminal community or organisation if it is committed by a structured organised group or groups operating under a unified leadership. Members of such group(s) come together with the aim of committing one or several serious or very serious crimes in order to obtain, directly or indirectly, financial or other material benefit. In other words, when referring to a criminal community, this Article refers to a network formed with the particular purpose of committing serious or very serious crimes.

According to this definition, the presence of an organised criminal group cannot be identified in those cases where a group of people committing economic crimes is not created with the particular purpose of committing crime, but develops as a reflection of structures existing in a legal entity. For example, a manager and their subordinates using their position to commit economic crimes. In this case, Russian law enforcement agencies do not clearly understand whether the activity of such groups can be qualified as organised crime. In this regard, the corresponding crime qualification practice in the Russian Federation is controversial and under the same circumstances, law enforcement agencies charge suspects with organised crime in addition to economic crimes in some cases, while in others they do not.

Corruption in Russia has been granted the official status of a threat to national security (President of Russia, 2010). Meanwhile, illegal participation in an entrepreneurial activity, which is nothing else than a merger of government and business, is classified as a minor crime. Consequently, an association of individuals based on the commission of such crimes cannot be considered as a criminal community, and as a result, the corruption basis of organised crime remains inviolable.

3 Sentencing of White-Collar Crime

Under Part 3 of Article 60 of the Criminal Code (CCRF, 1996) entitled: "General principles of sentencing", the nature and degree of public danger of a crime, as well as the personal and social status of the convict, including mitigating and aggravating circumstances, are to be considered in sentencing. The impact of the sentence on the improvement of the convicted person and the living conditions of their family are also taken into account. In this context, according to the Resolution of the Plenum of the Supreme Court of the Russian Federation no. 58 of 22 December 2015 "On the Sentencing Practice of the Courts of the Russian Federation," personal information to be considered when imposing a punishment include the materials characterising the convict, which are available to the court while sentencing. In particular, such materials may include information regarding the family and property status of the criminal, health condition, behaviour in everyday life, the existence of children or other dependent persons (spouse, parents or other close relatives).

It is noteworthy that the personality of a white-collar criminal, unlike a conventional criminal, who has multiple points of contact with the criminal justice system, is almost flawless on paper. As a rule, these persons have no prior convictions (at least the sentences studied for the purpose of this paper do not reveal a single case of previous convictions), are employed and characterised by their workplace solely positively. Strictly speaking, all of these positive characteristics arise from the very essence of "white-collar" crime, which consists of crimes committed by persons with a privileged position in society and substantial social capital. Consequently, there is a particular paradox, since the characteristics inherent to the personality of a white-collar criminal are considered in their favour when sentencing such a criminal.

Article 61 of the Criminal Code (CCRF, 1996), entitled: "Circumstances Mitigating Punishment," recognises the following mitigating circumstances:

1. Commission of a minor or moderate crime as a result of an accidental concurrence of circumstances
2. Minority of the convict (under 18)
3. Pregnancy
4. Existence of young children
5. Commission of a crime due to the concurrence of difficult life circumstances or on compassion grounds
6. Commission of crime as a result of physical or mental coercion or due to financial, work-related or other dependence
7. Commission of crime as a result of violation of lawful conditions of necessary defence, of detention of the criminal, extreme necessity, reasonable risk, execution of an order or instruction
8. Unlawful or immoral behaviour of the victim, which provoked the crime
9. Voluntary surrender, active contribution to the resolution and investigation of the crime, detection and prosecution of other criminal participants, search for property obtained as a result of the crime

10. Medical and other assistance to the victim immediately after committing a crime, voluntary compensation for property and moral damage caused by the crime, as well as other actions aimed at mitigating the damage caused to the victim (Part 1).

In addition, other circumstances not covered by Part 1 of this Article can also be considered as mitigating for the purpose of sentencing (Part 2) (CCRF, 1996).

Thus, in the criminal law of the Russian Federation, the list of mitigating circumstances is open. Furthermore, the previously mentioned Resolution no. 58 of the Plenum of the Supreme Court of the Russian Federation of 22 December 2015, establishes that the court has the right to recognise the following mitigating circumstances: confession of guilt, including partial repentance for the offence, existence of dependent elderly persons, disability, state and departmental awards, health condition, participation in military operations for the defence of the Fatherland, etc.

Such interpretations make it possible to recognise almost any circumstance as mitigating, specifically as they relate to the person involved, and not to the criminal offence they committed. Accordingly, such interpretations confound personality characteristics and mitigating circumstances, since the courts suggest they ought to be considered simultaneously. For example, a health condition, in the view of the court, can be both a personality characteristic and a mitigating circumstance. Moreover, this approach applies to all crimes without exception, including white-collar crimes. However, even though one may justify such an approach when it comes to conventional crime, it is often counterintuitive with respect to white-collar crime. First, it means that the court may recognise those very positive personality characteristics of a white-collar criminal as mitigating circumstances. Second, it is absurd, for instance, to recognise the fact that a white-collar criminal received an award for the performance of their duties, as a mitigating circumstance, when they used the same position to commit crimes. Common sense suggests that such circumstances should be, on the contrary, considered as aggravating circumstances.

4 Case Studies

The researchers examined 62 judgments of conviction delivered between 1 January 2014 and the end of 2017, which can be attributed to white-collar crime. Thus, all the studied sentences characterise white-collar criminals positively (100% of sentences). In terms of offenders' personality characteristics, the courts also referred to the absence of a criminal record or the fact that they were the subject of criminal prosecution for the first time (100%), the absence of administrative offences, as well as the fact that they were not registered with a psychiatrist and a drug abuse therapist. In addition, the courts considered the availability of certificates, state awards, medals and letters of gratitude received in their workplace, but considering the latter circumstance, it seems an extremely questionable practice. In the studied sentences, the courts also found as mitigating circumstances the absence of a criminal record or first-time offending, the existence of young children or elderly parents, health condition, repentance, and the partial or full compensation of damage caused by the crime. That said, none of the examined sentences referred to any aggravating circumstances.

After reviewing white-collar crime cases, the authors selected examples which illustrate the complexity of cases, formal legal boundaries and the attitude of judges dealing with such matters. By way of example, a case involving a property crime is also presented to depict the situation of dealing with "ordinary" property offenders and the consideration of their personality, social and other (mainly psychological) characteristics that influence the decisions of criminal courts. Summaries of the cases are presented below.

4.1 Case 1

In some cases, law enforcers get confused and charge some members of a criminal organisation with organised criminal activity, while not charging others. However, the question of such charges is relevant not only for ensuring fair punishment, but also in terms of preventing such offenders from evading criminal liability in general. The case of Viktor S., a General at the Ministry of Internal Affairs, is rather illustrative:

The investigation revealed that Mr S., in his position as the head of the Azov-Black Sea Directorate for Internal Affairs in the field of Transport, which is part of the Ministry of Internal Affairs of Russia, joined an organised group, which was a structural subdivision of a criminal community formed by Mr Ch. and Mr M. This community smuggled goods from the Syrian Arab Republic, the United Arab Emirates and the Republic of Turkey. The criminal activity scheme was as follows: an aeroplane arrived from the aforementioned countries to the Maykop and Sochi airports carrying smuggled goods that the officials involved in the structural units of the organised group falsely declared by knowingly entering false information about the cargo, its recipients and declarants into customs declarations. Later, they transported the goods to special warehouses in the Krasnodar Territory and from there to Moscow under the guise of corrupt employees work-

ing in the internal affairs bodies. In Moscow, they sold these goods. According to the investigators, S. acted as a patron of activities carried out by the organised groups, disrupted lawful actions of his subordinate transport police officers aimed at smuggling detection by prohibiting them from carrying out any relevant operational work and eliminated obstacles to smuggling. In total, the General took part in 59 cases of smuggling. Since the criminal community had permanent members, a hierarchical structure, a specific goal aimed at enrichment, featured thorough planning and the distribution of roles among its members, and had extensive connections, including in law enforcement agencies, etc., some members of the criminal organisation faced charges under Article 210 of the Criminal Code. However, other members, including S., did not face charges under the same Article. According to the investigators, S. was not fully aware of all the plans and members of the criminal community, and was not familiar with all the means and methods for smuggling the goods. As a result, S. was alleged to have committed 59 crimes stipulated in Part 4 of Article 188 (smuggling committed by an organised group) of the Criminal Code (CCRF, 1996). However, due to the liberalisation of the criminal law by the Federal Law No. 420-FZ of 7 December 2011, the aforementioned Article was repealed and criminal proceedings against S. were dismissed.

4.2 Case 2

The Nefteyugansk District Court of the Khanty-Mansi Autonomous Okrug convicted Mr. Khodakov of possession and sale of narcotic drugs as part of an organised group, as well as of the laundering of proceeds. In this regard, the basis for the qualification of his acts as laundering stemmed from the fact that he deposited the money generated by drug sales into his bank accounts and then spent this money for his own needs (V 1-100/2015).

4.3 Case 3

The Tagilstroy District Court of Nizhny Tagil sentenced Mr. Kokorin to two years of imprisonment in a general penal colony. Additionally, the sentence of 15 October 2018 included a fine of 500 thousand roubles for failing to pay wages to the workers due to mercenary interests (Article 145 of the Criminal Code), large-scale fraud (Article 159 of the Criminal Code) and the concealment of the organisation's monetary funds (Article 199 of the Criminal Code). Kokorin, being the head and the co-owner of the Nizhny Tagil Insulating Materials Plant, failed to pay salaries to company employees from December 2015 to January 2017, even though he was not bankrupt and had a real opportunity to repay the debt. Nevertheless, he did not react to employee grievances, stating that they could complain to anyone, including the President of the Russian Federation, and State authorities did not respond to these complaints either. However, the situation changed after the employees made a call to the President during his annual televised call-in show. Following their appeal, the President of the Russian Federation, Vladimir Putin, at a meeting with the governor of the Sverdlovsk Region Yevgeny Kuyvashev, asked him "to get a handle on this brazenness". A day after this conversation, a group of investigators arrived in the region and established that in the 2013–2015 period, Kokorin siphoned off funds from the plant to an allied company. To do so, he concluded fictitious supply contracts with the industrial equipment supplier Uralenergomash. The contracted company did not deliver anything. In total, Kokorin embezzled more than 22 million roubles from the plant. From October 2016 to January 2017, Denis Kokorin concealed in total about 5 million roubles (Kommersant.ru, 2018). As one can , the criminal justice response based on criminal legislation can function in the "manual mode", i.e. apply only to specific individuals on certain occasions.

Interestingly, this kind of top-down intervention by the top political leadership received a rather ironic mass media reaction. In particular, the Gazeta.ru newspaper published an article entitled "The President Asked to Sentence Kokorin to Two Years in Prison" (Koroleva, 2018).As for the major economic criminals, they are subject to criminal liability only as a result of scandalous and high-profile situations. However, in contemporary Russia, such cases have very rarely become publicly visible.

An illustrative example here is the verdict against the well-known entrepreneur O.V. Shishov, who was arrested in November 2014 under suspicion of fraud. This case involves the construction of the Primorsky Aquarium by Shishov, which, as envisioned by the Government of the Russian Federation, was to open for the APEC (Asia-Pacific Economic Cooperation) summit in 2012. The federal treasury allocated over 20 billion roubles for the construction of this facility, however it was not completed by the deadline, and the opening of the aquarium was subsequently postponed several times. In this respect, the scandal surrounding Shishov arose after Vladimir Putin paid a visit to Vladivostok and expressed indignation about the protracted construction (Glamur, 2017). The intervention from the top of the political leadership was again the case.

O. V. Shishov had no prior convictions , was not registered with a psychiatric or a drug abuse therapist, acknowledged full responsibility for his crimes and took measures to partially compensate the material damage caused by the crime, as well as to partially compensate the amount of unpaid VAT, which indicated his repentance. Shishov is socially mature; for 20 years, he has been a deputy, a district police of-

ficer, and head of other organisations and public associations. Therefore, Shishov possesses exclusively positive characteristics. He is a Candidate of Technical Sciences and a member of the Academy of Transport. He has repeatedly been presented with certificates of honour, medals, badges of honour and other awards, including the "Honorary Builder of Russia" badge, a medal "For High Achievements" presented to him by the Governor of the Omsk Region, "The Parliament Of Russia" badge of honour, a letter of gratitude for work achievements presented to him by the Minister of Transport of the Russian Federation, a gold medal "For Special Merits to the Omsk Region", a diploma presented to him by the President of the Republic of Sakha (Yakutia) for his contribution to the construction of a river crossing, the "Charity in Russia. For Active Participation" medal, a medal "For Merits in Business", a badge of honour "For Merits to Vladivostok", and other awards. Shishov is a laureate of the Moscow Prize for the development and implementation of the Zhivopisny Most (Picturesque Bridge) project: the bridge across the Moscow River with a built-in viewpoint.

According to the reviewed criminal case file, Shishov has no negative personal characteristics. The court also considered the age and health condition of Shishov, who has several chronic diseases, the opinion of the representative of the victims' organisation, who did not present any material claims before the court and did not insist on severe punishment. Furthermore, the court considered Shishov's achievements in his activities as the General Director of the Mostovik (Bridge Builder), LLC, scientific production association, as well as the existence of his dependent elderly mother.

Under Article 61 of the Criminal Code, the court recognised the aforementioned mitigating circumstances in pronouncing defendant's sentence. While considering this criminal case, the court established no aggravating circumstances that would affect the sentencing of O. V. Shishov, as stipulated in Part 1 of Article 63 of the Criminal Code (V 1-390/2016). He was sentenced to three years' imprisonment.

4.4 Case 4

There are numerous similar cases demonstrating that offenders who commit petty property crimes are convicted more often than white-collar criminals. The "psychological profile" of the former is presented differently; they are reckless, irresponsible, greedy people with personality disorders.

E. V. Pechko was sentenced to ten months' imprisonment for stealing five T-shirts worth 3,045 roubles (about 50 USD) from a store, due to the negative characteristics of his personality, including repeated offending. E. V. Pechko, who committed a crime of little gravity in the period of outstanding convictions for the commission of similar crimes, as well as a suspended sentence, has a permanent place of residence, is single and has two young children. At his place of residence, Pechko receives satisfactory characteristics, while at the place of serving his punishment, he is described as having negative traits: he is unemployed and has a previous criminal record for repeated crimes against property. The court considers this information as characterising his personality.

The circumstances mitigating his punishment include having young children, a guilty plea, and the fact that Pechko is not registered with a psychiatrist or a drug abuse therapist. The circumstances aggravating his punishment are related to criminal recidivism.

Given that the defendant committed a crime of little gravity and taking into account specific circumstances, as well as the nature of the offence, the fact that the offender is inclined to the commission of offenses, his negative characterisation by the place of serving his punishment, the fact that he committed the crime at issue in the period of outstanding convictions for the commission of similar crimes against property, his marital status and presence of dependents, the combination of mitigating and aggravating circumstances, the court, which could opt for one of the alternative sanctions stipulated in the penal part of the relevant Article (fine, obligatory labour, corrective labour, restriction of freedom, compulsory labour, arrest or imprisonment), instead sentenced the defendant to imprisonment (V 53/2017). The pronouncement of the most severe penalty provided for the crime committed by Pechko was conditioned by the negative characteristics of his personality. However, the damage caused by all his crimes was less than the damage caused by white-collar crimes.

After studying the cases presented above, one could make the following observations. First, criminal liability for these crimes applies almost exclusively to petty criminals (in terms of both social capital and the damage caused). Heads of municipalities are usually the typical perpetrators of crimes related to the misuse of budgetary funds. Second, the criminal justice response to white-collar crimes is replete with errors. For example, there are cases where the expenditure of money obtained by criminal or illegal means, or its depositing into a bank account, was qualified as laundering. Currently, the Supreme Judicial Authorities, for the most part, revoke such qualifications. However, the investigating authorities and lower courts persist in the relevant practice. Third, the criminal justice response to white-collar crimes is sometimes the results of a top-down intervention by the political leadership (in some cases by pressure from the very president of the state).

5 Discussion

The observations presented above are in line with those in other studies on white-collar crime (Ferme, 2013; Kanduč, 2015). The state mainly deals with petty crime, in particular property and violent crime, as well as other criminal offences committed by representatives of the lower strata of society. On the other hand, white-collar criminals use informal networks and their influence (Dobovšek & Meško, 2007) to continue their (criminal) activities and are cleared of guilt of sophisticated crimes, sometimes due to the judges' inability to understand the logic of the committed criminal offences or merely their lenience towards white-collar criminals, since they are people of influence. It seems that an average person and even a judge is able to understand the significance of financial harm amounting to several hundred or thousands of EUR, but when it comes to harm reaching several million or even billiona of EUR, these amounts of money seem to become rather abstract.

The common characteristics of the studied cases include depicting white-collar offenders as "good and positive" people before criminal courts and the leniency of judges in convicting the accused white-collar offenders. On the other hand, "ordinary" property offenders are usually depicted in negative terms and believed to be bad, morally weak and dangerous. There is a need for further debate on social harm, criminal responsibility and equality before the law.

Nikoloska (2014) notes that the investigation of white-collar crime is a complex problem due to the involvement of several state institutions with police authority and requires financial intelligence and tracing of illicit proceeds gained by the perpetrators. A successful investigation of such criminal offences thus depends on the cooperation, coordination and exchange of information among the police, financial police, customs authorities, etc. Criminal investigation is an essential element of the criminal justice response. In this regard, Yalyshev (2013) finds that the criminal investigation of property and violent crimes has been well developed. It is therefore necessary to upgrade specific criminal investigation techniques for the criminal investigation of organised criminal groups, white-collar crime and terrorism. In addition, attempts and successful disqualifications of white-collar crime investigators are common. White-collar crime belongs to a group of sophisticated types of economic crime. Bobnar (2013) notes that only coordinated (co)operation of competent state bodies and institutions in dealing with white-collar crime, joint priorities, and motivated and skilled investigators can lead to the successful investigation of this type of crime. Moreover, this "is a step forward in strengthening the rule of law and people's confidence in the law" (Bobnar, 2013: 168). In successful operations, specialised investigation team members and heads of competent state bodies assign top priority to solving the tasks related to the investigation. Bobnar (2013) believes that in the most challenging cases, only a multidisciplinary approach in the form of specialised investigation teams can guarantee that a case is processed in a timely and coordinated manner. In addition, political will and the general climate in a society can significantly contribute to the development of effective laws and criminal justice responses to those who cause more harm to society than the majority of petty criminals combined. Similar findings can also be found in other studies on white-collar crime (Hoffman, 2008; Renneboog & Simmons, 2005).

To conclude, in Russia, more than 150,000 people per year are convicted of theft, a socially dangerous act that can be regularly found at the top of the list in judicial statistics according to the number of convicted persons. One hundred and sixty-five persons were convicted of illegal enterprises in 2014, 148 in 2015, 507 in 2016, and 146 in 2017 (Judicial Department at the Supreme Court of the Russian Federation, 2019). In other words, an illegal enterprise is quite an ordinary economic crime.

Out of the enormous number of thefts (in this case recorded by law enforcement organisations), only a small number results in the infliction of severe or particularly severe damage. In addition, it must be borne in mind that, according to the Criminal Code, property value over 250,000 roubles is recognised as high in terms of theft, and 1,000,000 roubles as particularly high. In terms of illegal enterprise, considerable damage is identified when amounts exceed 2,250,000 roubles, while particularly high damage exceeds 9,000,000 roubles. Only one legal provision stipulates the liability for white-collar crime, and this provision is applied rarely, particularly when the damage caused by illegal enterprise significantly exceeds the damage caused by the most dangerous types of theft, claiming to compete with economic crimes by the amount of stolen property.

However, it is worth noting that this is only the quantitative side of the damage, there is also the qualitative side of the damage caused by white-collar crimes, significantly exceeding the damage caused by conventional crimes against property. The fact is that such crimes cause damage directly to the individual (victim) and only indirectly to the state. White-collar crimes can cause direct damage to the state and the individual, and such socially dangerous acts include tax-related crimes. Thus, according to the Ministry of Finance of the Russian Federation, the amount of "grey" salaries in Russia (this refers to cases where employers officially pay only the minimum possible salary or wage subject to taxation and pay the real amount of the salary unofficially) exceeds 10 trillion

roubles per year (RIA novosti, 2017). This means that not only does the state not receive sufficient taxes, but the employees are also losing their right to several social guarantees provided by the state; for example, a decent pension, the amount of which depends on the salary.

Thus, the thirty-year development of capitalism in Russia has developed a criminal law system that is quite far from the ideals of social equality and has, to put it bluntly, an inherent class nature. Its slogan is based on the title of a popular book: "The Rich Get Richer, and the Poor Get Prison" (Reiman & Leighton, 2012) as indicated in the discussed cases.

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Kaznovanje beloovratniške kriminalitete v Ruski federaciji

Dr. Ivan Kleimenov, profesor, Oddelek za ustavno in upravno pravo, Nacionalna raziskovalna univerza - Višja ekonomska šola, Rusija. E-pošta: piligrim111@mail.ru

Dr. Gorazd Meško, redni profesor za kriminologijo, Fakulteta za varnostne vede, Univerza v Mariboru, Slovenija.
E-pošta: gorazd.mesko@fvv.uni-mb.si

V prispevku so predstavljene kriminološke perspektive o beloovratniški kriminaliteti, ki jim sledijo kazenskopravne perspektive o preiskovanju beloovratniške kriminalitete, t. i. nezakonita dejanja, ki so jih storili ugledni posamezniki z visokim družbenim statusom v času opravljanja dolžnosti v Rusiji. V prispevku so povzete ugotovitve študije iz leta 2018, ki zajemajo uradno statistiko sodišč ter študije primerov iz kazenskih sodišč. Ugotovitve kažejo na podobno obravnavo primerov beloovratniške kriminalitete, kot je predstavljena v kritični kriminološki literaturi (t. i. kompleksnost beloovratniške kriminalitete, povezave storilcev beloovratniške kriminalitete z drugimi vplivnimi posamezniki, prizanesljivost kazenskih sodišč do storilcev beloovratniške kriminalitete in formalni postopkovni razlogi za oprostitev storilcev beloovratniške kriminalitete). Avtorja predlagata izboljšave v preiskovanju tovrstne kriminalitete, saj študije o kriminalistiki kažejo, da je policija dokaj uspešna v preiskovanju premoženjske in nasilne kriminalitete, medtem ko je razvoj preiskovalnih metod beloovratniške kriminalitete še vedno izziv. Avtorja na podlagi študije poudarita tudi, da družbene elite vplivajo na sprejemanje kazenske zakonodaje, ki je manj učinkovita pri formalnem družbenem nadzorovanju storilcev beloovratniških kaznivih dejanj.

Ključne besede: beloovratniška kriminaliteta, kaznovanje, Rusija, študija primerov

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