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Participants of mechanism of crime and their criminalistical characteristic

Abstract: When it is characterized the participants of a crime mechanism, such criminal legal concepts should be important: an intentional or careless commission of a crime, commission of a crime by a minor, an insane, a person in a state of alcohol or drug intoxication, dangerous special recidivist, and also all articles of the Special part of Criminal Code that define the legal composition of crimes.

While designing the criminalistical notions of ‘participants of a crime mechanism’, the criminal procedural terminology cannot be ignored, with the help of which definitions are given to those participants in a criminal process who become by them due to their involvement in a crime, in its mechanism.

Describing the participants of a crime mechanism from a criminalistic position, we cannot ignore their role-playing functions, which later make them relevant participants in the criminal process, endowing them with rights and duties provided for by law.

In view of the foregoing, we believe that the participants of a crime mechanism are persons who perform various role-playing functions in this mechanism, due to the nature of an act, its legal composition, the setting of a crime, the way its preparation of commission and concealment, and its consequences.

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Criminalistics has not developed the notion ‘participant of a mechanism of crime’. Defining a mechanism of crime, Professor R.S. Belkin in the textbook for universities noted in it “a subject of crime, his/her attitude to his/her acts, their consequences, accomplices”. Here, he had distinguished behaviour of persons who turned out to be random participants of an event and others [2, p. 6].

Apparently, this cannot be limited to any full disclosure of the essence of the notion ‘participant of a crime’. For this, it is necessary to use the concepts of participants in a crime and participants in a criminal process that have developed in criminal law and in a criminal process, and taking into account this to construct the notion ‘participant of mechanism of crime’.

Criminal law (Art. 32 of the Criminal Code of Azerbaijan Republic) is listed the following participants of crime:

- executors – i.e. the persons, who have directly committed a crime;
- organizers – i.e. the persons, who have organized committing of a crime or managing its execution;
- abettors – i.e. the persons, who has declined other person to committing a crime;
- assisting offenders – i.e. the person assisting by advice, instructions, granting of the information, means or instruments in committing a crime or by removal of obstacles, and also the person, beforehand promising to hide a criminal, means or instruments of fulfillment a crime, traces of a crime or the subjects extracted in the criminal way, and person beforehand promising to get or sell such subjects as well [4, p. 44-45].

All listed categories of the persons are considered by criminal law as accomplices of a crime. The degree and nature of participation of each of the



accomplices in commission of a crime shall be established by investigation and a court [3, p. 79-82].

It should be kept in mind that complicity is not a criminalistic, but a criminal legal notion of a form of committing a crime by several individuals. However, the use of this notion for criminalistical purposes does not contradict the interests of neither criminalistical science nor criminal law, since both sciences are among the legal sciences and direct borrowing by the criminalistics of criminal legal terminology provides terminological unity at describing the same object of research, in this case - crime and its mechanism.

Based on this, we are obliged to consider one part (group) of the participants of a mechanism of crime as accomplices in a crime at all its stages: in preparation, in the process of committing and concealment.

Simple complicity is co-execution, in which all participants are directly involved in committing of criminal offenses. Such, for example, is group hooliganism, banditry, gang rape, and other crimes.

It may be complicity in its complex form, when accomplices fulfill various roles: direct executors, assisting offenders, organizers, abettors. This form of complicity takes place in case of large-scale organized embezzlement, extortion, fraud, mass riots, accompanied by pogroms, murders, robberies and other crimes.

In the criminal law and criminalistical aspect, it is important to establish how the actions of accomplices are connected with a criminal result. As a rule, such communication is carried out through an executor or group of executors [1, p. 98-101].

It is also necessary to distinguish the acts that are connected with a crime, but not conditioning directly or indirectly commission of it. Such actions include not previously promised concealment, failure to report. The perpetrators of these acts should be considered as participants of a crime mechanism, since they help to conceal the fact of traces of a crime.



When it is characterized the participants of the crime mechanism, such criminal legal concepts should be important: an intentional or careless commission of a crime, the commission of a crime by a minor, an insane, a person in a state of alcohol or drug intoxication, a particularly dangerous recidivist, and also all articles of the Special part of Criminal Code that define the legal composition of crimes.

While designing the criminalistical notions of ‘participants of a crime mechanism’, the criminal procedural terminology cannot be ignored, with the help of which definitions are given to those participants in a criminal process who become by them due to their involvement in a crime, in its mechanism. These are suspected (Art. 90 of the Code of Criminal Procedure of Azerbaijan Republic; hereinafter, the CCP), accused (Art. 91 of the CCP), victim (Art. 87 of the CCP), witness (Art. 95 of the CCP), civil plaintiff (Art. 89 of the CCP) and civil defendant (Art. 93 of the CCP).

The criminal procedure law of Azerbaijan does not determine their participation in a mechanism of crime. It regulates the rights and obligations of these persons in the criminal process, the conditions of the pre-trial investigation, inquiry and court proceedings with their participation. The functions of these persons of the mechanism of crime are clarified in each specific case by investigation and a court. Experience shows that a person who initially participated in a criminal process as a witness may become accused of committing a crime and vice versa - the accused may become a witness, and sometimes the victim.

Describing the participants of a crime mechanism from a criminalistic position, we cannot ignore their role-playing functions, which later make them relevant participants in the criminal process, endowing them with rights and duties provided for by law.



In view of the foregoing, we believe that the participants of a crime mechanism are persons who perform various role functions in this mechanism, due to the nature of the act, its legal composition, the setting of the crime, the way its preparation, commission and concealment, and its consequences.

Criminalistical classification of participants the mechanism of crime should be based on considering of their belonging, bearing in mind the studied regularities of the crime mechanism and formation of evidentiary information, using the provisions of criminal law and the process. Proceeding from this, we suppose it is reasonable to call the following criteria of such a classification:

a) depending on a kind and nature of crime;

b) depending on a role in crime, attitude to a criminal fact-event of crime and its stages;

c) depending on certain physical, mental, social and legal signs, other features affecting the crime mechanism, in particular, the way it was committed, the nature of the traces and other consequences;

A). Depending on a kind and nature of crime in its mechanism can be distinguished the following typical groups:

- the crimes in which, due to the specifics of their composition and mechanism in criminal situations, it is possible the participation of one subject – an executor of a crime. His actions (inactions) determine the specifics and other consequences.

Such, for example, the theft of another's property, committed by one person; a murder of newborn child by the mother; some other types of homicide; some types of misconduct, such as forgery of office and some other offenses. Such types of crimes are minority. This refers to the cases of the complete absence of witnesses and accomplices at all stages of crime. Their disclosure is based mainly on the materially recorded consequences of crimes, other indirect evidence, and the testimony of a person who committed the crime.



- the crimes, participants of which might be two persons. It is possible the following scenarios:

1) both participants are the executors of crime. These are, for instance, cases of giving and receiving bribes without intermediaries. The disclosure of these crimes is complicated by collusion between its participants, the presence of common interests in concealing the fact of a crime and its traces.

2) one participant is an executor, other one is his victim. These are numerous cases of rape; bodily harm; robbery, assault with intent to rob, fraud and other crimes.

The disclosure of these crimes uses the testimony of the victims, materially fixed consequences, contradictions between the participants of the event, one of whom (the victim) is interested in the just punishment of the criminal, and the other is in concealing the crime and avoiding responsibility.

- the crimes in which participation is possible not only of an executor and the victim, but also of witnesses. The overwhelming majority of crimes, as experience shows, are committed with witnesses. These are the numerous cases of traffic accidents; resistance to authority officials or representatives of the public; assaults and robbery in presence of witnesses; hijacking vehicles without the purpose of their assignment; violation of fire safety rules; arbitrariness; an individual hooliganism; careless storage of a firearm, which created conditions for its use by another person, if this entailed serious consequences; illegal manufacture, acquisition, storage, transportation, shipment with the purpose of selling or selling drug substances and other crimes.

Witnesses' testimony is of great importance in their disclosure and investigation. The investigation of such crimes often begins with a study of testimony of witnesses, and if there are, then of the victims. Their testimony is the basis for searching other sources of information, including the material consequences of a crime, the detection for a criminal and accomplices;



- a crime, an executor of which can be one subject, and tens or even hundreds of people to be as hostages or victims. In the mechanism of crime, depending on the nature of criminal situations, some or all of them may actively resist the criminal, others may behave passively. In the criminal process, such participants act as witnesses, or as victims, if they suffer any damage. These are the frequent cases of hijacking or attempting to hijack an aircraft;

- similar situation is the cases of sabotage in railway transport; intentional damage or destruction of communications and vehicles. The act of sabotage or damage to vehicles can be committed by one subject. However, the consequences of a criminal situation are reflected in many people, who are thus involved into the crime mechanism by force of circumstances. Their participation in its disclosure is limited by establishing the circumstances, nature of sabotage (destruction), and their consequences.

Very numerous are the crimes, in the mechanism of which as executors and other accomplices acts a group of persons. Here may be the following ways.

1) Mechanism of crime based on the actions of an organized group, in which, in addition to direct executors, may be organizers, abettors, assisting offenders. Depending on the nature of a crime the victims and witnesses may be other participants.

These are the cases of organized subversions, wrecking, theft of another's property, committed by misappropriation, or embezzlement; banditry, smuggling by a group of individuals; mass riots, specially organized and accompanied by riots, destruction, arson and other criminal acts; malicious disobedience to the requirements of the administration of a correctional labour institution; group escape of prisoners, committed by a preliminary arrangement by a group of persons; actions disorganizing the work of correctional labour institutions by an organized group; thefts, robberies, assaults, hooliganism and other crimes committed by an organized group.



Disclosure these group crimes always associated with establishing of then group members, determining its leader, organizers, establishing their role-functions in the group, contradictions between its members.

2) Mechanism of crime is associated with the actions of several people, linked to each other by official duties. These individuals may not be also as an organized group. Each of them performs a special function in the mechanism of a crime, and sometimes their actions form an independent corpus delicti, the totality of which forms a complex mechanism of action. Its participants can be both victims and witnesses.

Such complex crimes with multiple participants include: pollution of a sea, rivers, lakes with untreated and non-treated sewage, industrial waste, which caused or may cause harm to human health, agricultural production, fish stocks; air pollution with harmful to all living industrial waste; pollution of a sea with substances harmful to human health, to the living resources of a sea through their throwing from ships and platforms. As rule, there are the following presented in the mechanisms of such crimes: various abuses of power or office position, official negligence, official forgery. The consequences of these crimes are enormous in scale, they destroy the ecological equilibrium in nature, leading to the death of people, animals, poisoning of the whole flora and fauna in a vast territory. It is enough to refer to the consequences of the Chernobyl disaster, in which not only the workers who served this nuclear power plant are guilty, but also many other persons whose responsibility for the time being is hidden for a number of objective and subjective reasons.

Investigation of such crimes is extremely time-consuming; it is carried out on special programs by a group of investigators, experts and operational workers.

This is the most general description of the participants in a crime mechanism, depending on its type and character.



B). Depending on the role in a crime, an attitude towards the main fact - a crime event - the participants of its mechanism might be divided into the following groups:

Group no. 1 – direct executors of a crime who participate in its preparation of commission and concealment;

Group no. 2 – organizers of a crime; these are, as a rule, persons not involved in the direct commission of a crime, who take on organizational functions, for example, to set up a group of plunderers and conditions of theft, to organize mass disorder involving other crimes (murder, arson, pogroms, etc.). The organizer is behind the scenes of criminal situations, not participating in them directly;

Group no. 3 – leaders of a crime; they can be organizers and then they combine the function of organizers and the function of managers. For example, the organizers of gangs, hooligan groups, riots, hostage taking in the correctional labour institution, theft and other crimes can simultaneously combine the functions of leaders in committing of these crimes;

Group no. 4 - abettors and accomplices, inclined to commit the crime of direct executors (and sometimes organizers and leaders, for example, gangster formations), who committed the commission of crime by advice, provision of crime instruments, weapons, housing, drugs, alcohol, hiding a fact and consequences of a crime, stolen property, money, valuables.

Group no. 5 - intended or incidental victims of crime; in the criminal procedural aspect, these are victims who suffer physical, material or moral damage. A complex crime mechanism arises, for example, in the preparation of murder and the realization of intent in a criminal situation. The victim is a direct participant. Between the criminal and the victim there can be various relationships, analysis of which often allows solving the crime. However, the act of murder interrupts these relationships, giving rise to new sources of information: a corpse,



traces of murder, and other consequences that are used to establish and prove the circumstances of a crime.

When committing thefts between an executor and the accomplices, certain relationships can also develop, in particular, at the stage of preparation for the theft, if it is accidentally detected, or at the moment of arrest of the criminal in hot pursuit. Investigation of these relationships is also one of the ways to establish the circumstances of a theft.

Group no. 6 – witnesses-eye-witnesses; they can be associated with executors and other accomplices by office, relative, friendly relationships. There can be also random witnesses, for instance, at commission of thefts, hooligan acts, and other crimes.

From the standpoint of criminalistics, there have significance not only the role functions of the participants in the crime matter, but also the degree of their activity, their influence on the nature and mechanism of the consequences of a crime, the emergence and destruction of its traces.

In this regard, active and passive participants in the crime mechanism can be distinguished.

Active participants are often the executors, victims who determine by their acts a formation and nature of the traces and other consequences of a crime. Passive participants are, for example, witnesses who do not involve in mechanism of formation of the traces.

Active participants can destroy the traces of a crime and in this case the accessories after the fact that assist to conceal a crime and its consequences.

C). Classification of the participants of a crime mechanism depending on some physical, mental, social and legal signs, other personal features that impact on mechanism of a crime, in particular, on the way of its commission, nature of the traces and other consequences.



The signs that characterize every person are as individual as each person is individual and will not be repeated.

Therefore, we distinguish the more typical signs that influence on mechanism of a crime and its consequences.

In the first group we include the signs that characterize the gender and age. Indication of gender and age characteristics is explained by the specific features of the commission of crimes by women, men, minor adults, objects of encroachment, the nature of traces and other consequences, knowledge of which ensures the correct construction of versions, a choice of tactical methods of investigation.

In the second group, it is reasonable to include the signs that characterize the physical properties and physical anomalies of the participants: large height, athletic build, great physical strength or, conversely, poor physical development, vivid signs of external appearance (physical defects, for example, lack of a hand or leg, and presence of prostheses replacing them, the absence of one or several fingers on hands, birthmarks, scars, etc.), anomalies of vision (color blindness, myopia, hyperopia), anomalies of hearing, speech.

Some of these signs that inherent the executors determine a way of crime, nature of the traces, others are used to search and establish a criminal (catchy omens), the third ones should be considered at assessment of reliability of testimonies of any of the participants of mechanism of crime (anomalies of eyesight, hearing).

The third group can be composed by the persons with mental disorders: people suffering from schizophrenia, oligophrenia, increased emotional excitability, sex psychopaths, pyromaniac, prone to cruelty, sadism. The behavior of these persons determines the method and traces of the crime (especially cruelty when causing bodily harm), the relationships in a criminal situation are often a reason for the occurrence of fights, mutual insults, passing into a criminal



situation. Mental features of a personality determine the role functions of the members of gangs and hooligan groups.

The fourth group can be attributed the signs of professionalism, the presence of stable professional skills that determine the way and traces of crime. Some features of this group, for instance, organizational skills, communication skills, knowledge of a structure of economic relations, production technologies determine the methods of theft, the formation of organized groups of plunderers.

The fifth group can be included the persons suffering from alcoholism and drug addiction. They commit many crimes in a state of alcoholic or drug intoxication, which leaves an imprint on a nature of the traces and other signs of a mechanism of the act. Experience shows that alcoholics and drug addicts, as a rule, do not resort to dramatization and other complex methods of concealing crimes.

A special - the sixth group will consist of the persons evading socially useful labour, vagrants, and persons without a certain place of residence. The methods of the crimes committed by them (thefts, assaults, robberies, frauds and others) are associated with a quick change of visiting region.

Finally, in the seventh group, we distinguish especially dangerous recidivists, persons committing repeated (series) crimes, engaging in crimes as a business. For a long time, professional crime was denied. Life overthrew these ideas - professional crime is a fact in most countries of the world, including ours.

Nature of the crimes, a whole mechanism of their preparation, commission and concealment by recidivists have especial signs (thought-out preparation, selection of technical means of opening the warehouses, subtle techniques of concealment, the impact on witnesses and victims to conceal a crime, etc.). These signs serve as the basis for designing the versions of an identity of a criminal, existence of a criminal community, the methods and places for a sale of stolen property, and determination of investigation tactics.



There might be named one more group of the signs that characterize the victims only. These are victimological signs - susceptibility to the influence of criminal elements, especially when committing mass riots, gullibility, allowing you to engage yourself in deception during fraud, inability to critically assess the situation in situations close to criminal and become a victim of crime. Named groups of the participants of crime mechanism and the signs that characterize them cannot be considered abstracting from concrete manifestations in various acts and conditions of committing crimes, beyond interrelationship between them. So, for example, in the personality of a recidivist the signs of physical and mental abnormalities (special cruelty), professional skills (ability to drive a car, master locksmith or carpenter skills), and addiction to drugs can be combined.

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