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**Criminal readiness and criminal leading astray
in the mechanism of crime**

Abstract: Structure of a crime mechanism should be understood as the unity of interrelated elements that form an integrated system of actions for preparing, committing and concealing a crime, determined by certain factors that have a character of stable patterns.

The structure of crime mechanism is mobile, changeable, and multivariant. At the time of committing a crime, the state of this structure is characterized by some signs, after a crime by others.

According to the results of the study conducted, any person can be inclined to commit a crime, which means that all people have potential criminal readiness.

Keywords: criminal readiness; criminal leading astray; mechanism of crime; criminalistics; criminal law.

As it is known, the sciences that study the criminality and crimes develop specific systems of concepts, by means of which they, in accordance with their tasks, describe researched phenomena.

At the same time, the criminal law doctrine on the composition of the crime is basic; however, the goals of other sciences of a criminal cycle make it necessary to define specific imaginations and ideas, with obligatory use of the knowledge systems that study an individual, his behaviour, environment, products of activity,

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surrounding objects, events occurring etc. This is explained by the fact that every crime is associated with a huge number of tangible and intangible objects, and therefore capability of one science to study them is not enough.

At the same time, the current state of the criminal sciences, correlations between them preclude their existence in frame of one cycle. The same applies to the research and characteristics being formed.

And so, we will try to consider criminal law and criminological concepts of criminal readiness and criminal leading astray in criminalistic mechanism of crime.

Dozens of works are devoted to the problems of criminalistic readiness, the authors of which, with minor variations, believe that readiness to commit a crime is a state of the subject whereby at any time, as soon as the starting impulse arrives, he can start illegal activities [2, p. 157; 3, p. 243; 4, c. 138; 5, p. 98].

Criminal leading astray is an inclination of one person or persons of another person or persons to commit a crime by persuasion, threats, bribery, deception or other means.

In criminal law, criminal leading astray is considered a kind of complicity (deliberate joint participation of two or more persons in commission of an intentional crime) and is called incitement, and its accomplice is an instigator (see Articles 31-33 of Criminal Code of Azerbaijan Republic) [7, p. 44-45].

On the logic of a legislator, incitement will be absent when the person is inclined to commit a negligent crime, but this is a topic of special conversation, interconnected with the problem of criminal readiness to commit a negligent crime.

In criminalistics, a crime mechanism is understood a complex dynamic system that includes a subject of crime, his attitude to his actions, their consequences, accomplices, a subject of encroachment, the way by which crime was committed and concealed, criminal result, crime situation (place, time and other related circumstances); behaviour and actions of persons who were random participants in the events, etc.) [1, p. 10].



From the position of criminalistical science, a characteristic of a criminal act should be developed that would correspond to the tasks of this science - the development of tools and methods for working with forensic information. This is explained with the specifics of criminalistics, which examines the laws governing the formation of evidence arising from a crime, i.e. certain processes, the dynamics of phenomena, interrelationship of elements, consequences arising from crime and used as sources of information in a criminal case.

In this context, the notion of 'mechanism' meets better to the specified goals. It reflects the dynamism, interconnection and interdependence of parts, the certainty of a whole. It is clear to every open-minded reader that there is not and cannot be an analogy with a machine. The notion of 'mechanism' is quite capacious and is used in many sciences to clarify, first of all, an interaction of elements in their movement, development, change.

The doctrine on mechanism of crime is connected with criminal law doctrine of corpus delicti of crime because owing to this, forensic experts succeed in:

a) to show that crime mechanism cannot be considered distracting from the legally significant elements of crime, because the purpose of criminal process is to establish in the act of legal signs characterizing: a subject, a subjective side, the object (and subject) of encroachment, an objective side of crime's composition;

b) to focus on those elements of the mechanism that allow to identify the signs of a crime's composition, to identify the person who committed the crime, to collect evidence for each of the circumstances to be proved in a criminal case;

c) to use the consequences of a crime as sources of evidence and work with them by means and methods of criminalistics within the framework outlined by criminal law;

d) to show interrelation of the elements of crime mechanism within the limits that are outlined by criminal law.

Criminalistical doctrine of the mechanism of crime is connected with criminal procedure law, especially with theory of evidence in that part that defines



the list of circumstances to be proved in a criminal case, participants of criminal process, their rights and obligations, procedural methods of proof (investigative actions). This doctrine is associated with criminology, uses its provisions on the identity of an offender, the causes and conditions conducive to the crime, other provisions, in particular, the victimology data on a victim and his role in criminal act.

Each phenomenon, event, process, each fact, object can be considered from the side of their structure, which represents the unity of parts, elements that form something a whole. On this basis, the structure of crime mechanism should be understood as the unity of interrelated elements that form an integral system of actions for preparing, committing and concealing a crime, determined by certain factors that have a character of stable patterns.

Thus, in structure of the mechanism of crime can be distinguished:

- condition of preparation, commission and concealment of crime (place, time of year, day of week, weather conditions, conditions of visibility, audibility, location of an object, its specificity);
- participants of crime (persons committed crime, accomplices, concealers, eyewitnesses, victims);
- way of preparation, commission and concealment of crime;
- an object of encroachment;
- means of preparation, commission and concealment of crime;
- consequences of crime in its diversity depending on crime character;
- materially fixed traces of crime.

The main link, the core of the crime mechanism is a person, his actions or inactions, his relationship to them, on which the consequences of crime depend on certain conditions.

The actions of a person, their motivation, purpose, and way to achieve it can be correctly understood and explained using the provisions of criminalistics and other sciences.



For legal qualification of criminal deeds some elements its mechanism has no significance (for example, a choice of the way of commission or concealment of crime depending on specific situation may not also affect on qualification, let's say pick pocketing or robbery), however all elements of the mechanism in their interconnection have significance for disclosing crime and establishing a criminal. Explanation from position of number of sciences the significances of these elements ensures a disclosure and investigation of crime, establishing its composition, search for criminal, development of the tactics of conduction of investigative actions and a complex of operational search measures.

The structure of crime mechanism is mobile, changeable, and multivariant. At the time of committing a crime, the state of this structure is characterized by some signs, after a crime by others. It should be kept in mind that the consequences of a crime under the influence of external environment and people can change significantly, acquire other properties, which makes it difficult or even impossible to disclose and investigate a crime [6, p. 61-65].

In the context of research, which has jointly conducted since 2007 the both the Department 'Criminal law, criminal process and criminalistics' of the Institute of Law and Human Rights of the National Academy of Sciences of Azerbaijan and International Organization of Legal Researches, we will dwell upon more detail on the problems of criminal leading astray, which, in our standpoint, are directly related to criminal readiness.

Being limited with parameters of journal article and also with number of organizational issues, we will concisely state a core of research made, and, mainly, the results received, which, as it seem, if they reliable can significantly affect the basic provisions of the sciences of criminal cycle.

So, according to the results of conducted research (which has not completed yet, and has continued in other aspects), any person might be abetted to commit crime. Whether it means that everybody is ready to commit crime i.e. possesses with potential criminal readiness?



It should be kept in mind that complicity is not a criminalistic, but a criminal-legal notion of the form of committing a crime by several individuals. However, using of this notion in criminalistic purposes does not contradict the interests neither criminalistics nor criminal law, as the both sciences are related to number of juridical sciences and the direct using by criminalistics the criminal-legal terminology provides terminological unity when describing the same object of study, in this case, - crime and its mechanism.

Based on this, we are considering one part (group) of participants of the mechanism of crime as accomplices of crime in all its stages: when preparing, in process of committing and concealing. In our standpoint, these accomplices are the abettors.

In the mechanism of criminal leading astray (incitement), the subjects of crime are a person who inclined other person to commit a crime and misled person, and an object of encroachment is such values as life, health, honour, money, morality, social resources and others.

It might be asserted that in criminalistical aspect we are talking about two interrelated criminal acts - incitement and crime to commission of which is incited.

The law specifies such forms of incitement as persuasion, bribery, threats, but it stipulates the possibility of other ways that cannot be listed, since their choice depends on the type of crime, an identity of accomplices and many other circumstances.

We will make a reservation that, pointing out above about the possibility of incitement to commit the crime of any person, we did not mean any crime. In our case, a choice of crime has determined with directness to possibility of criminal leading astray depending on the circumstances.



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