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**PSYCHOLOGICAL CONTENT CRIMES AGAINST PROPERTY**

**Summary.** The article presents the author’s position on features of manifestations of intellectual, volitional and emotional spheres of person during commission of crimes against property.

**Keywords:** crimes against property, psychic activity of person in the time of crime, guilt, motive, goal, emotions.

**Formulation of the problem**. Elucidation of a crime constituting its psychological content is of great theoretical and practical significance, since they largely determine the qualification of the crime, affect the differentiation of criminal responsibility and individualization of criminal punishment. However, in criminal law theory on the matter expressed different opinions, which is not conducive uniform enforcement. As the debate continues on the designated topic, the author of this article did not want to stay away.Analysis of the psychological content of crimes against property will be made subject to the provisions of the Criminal Code of the Russian Federation (hereinafter - the Criminal Code).Presentation of the basic material. One of the tenets of modern Russian criminal law doctrine is presented by the fact that of the offense - is the inner aspect of the crime, its psychological content. Signs of the subjective side of the map to represent the intellectual and volitional and emotional levels of objective properties to commit crimes. As rightly pointed SV Veklenko and MV Bavsun, the process of human life should be viewed through the prism of its internal unity 2012 psychological content of crimes against property. The subjective side of all the crimes against property (except under Art. 168 of the Criminal Code) is characterized by a form of intentional fault. Most of these crimes can be accomplished only with the direct intention, average: theft in various forms, extortion, misappropriation of a car or other vehicle without the intent to steal, etc. The content of willful misconduct, such as theft (Article 158 of the Criminal Code) covers awareness socially dangerous nature of the grant, the secret seizure of another's property, and to reduce him to his advantage or benefit of others, anticipating the real possibility or inevitability caused as a result of damage to property, the owner (otherwise lawful owner of the property) and the desire to advance the consequences of this.In criminal law theory suggested the deletion of the definition of the intention of one of the categories - or foresight or awareness [2, 93, 17], with which I can not agree, for the implementation of such a proposal on the legislative level is depleted in response intention, not possible to fully disclose the work of intelligence person at the time of the crime.The magazine "Russian Justice" published judgment that the introduction to the intent of philosophical categories possibility and inevitability of foresight criminal consequences is debatable [3, 49]. In principle, any position can be challenged, however, the need to replace the contested categories to offer new, but others, the most appropriate term to describe the intellectual component of direct intent, in particular, I do not see. I think the law, on the contrary, it is wise entered by typing in the Criminal Law category of the possibility and inevitability, as it promotes a more clear distinction between direct and indirect intent.Feature of the subjective symptoms of skilled compositions "theft of items of particular value" ("c" Part 2 st.164 Criminal Code), and the "deliberate destruction of or damage to another's property, negligently caused human death or other grave consequences" (h . 2, Art. 167 of the Criminal CodeRussian), is a double form of guilt, which is estimated differently Russian lawyer. For example, V. Lukyanov suggested deleting Art. 27 crimes with two forms of guilt of the Criminal Code, as it believes that it does not solve the problem, and only serves to cover its unresolved scientifically educated [4, 59]. On the contrary, II Bike and EY Latypova persuaded to preserve the design of the crime with two forms of guilt that deserves support [5, 47]. In addition, it is important that the regulation of criminal responsibility for the crimes committed by the two forms of guilt, self-st. 27 Criminal Code - a great achievement, especially the Russian Criminal Sciences and a step forward in the development of Russian legislator Institute of guilt.From the position of a double fault in the form of an offense under subsection "c" of Part 2 of Art. 164 of the Criminal Code, the theft of items of special value, committed with direct intent, the consequences of destruction, damage and destruction of the stolen items a person is careless, and the reckless form of guilt can manifest as a frivolity, and in negligence. Meanwhile, it is important to state the law is there no careless form of guilt in regard to criminal result. This kind of white-space generates erroneous judgments about the possibility of indirect intent in respect of destruction, damage or deterioration of cultural values, therefore this gap needs to be addressed by including the disposition of part 2 of article. 164 of the Criminal Code careless form of guilt in regard to the above-mentioned effects.Of the offense, "causing damage to property by deception or abuse of trust" (Article 165 of the Criminal Code) is characterized by the direct intent, selfish motive and purpose of extracting illegal property benefit, ie too self-serving purpose. Direct intention is expressed in the fact that the offender is aware of socially dangerous nature of the acts committed, that informs the owner or the rightful owner of the property be false or silent about the real facts or uses their confidence against the interests of these persons, anticipates that in this way will suffer property damage, and wants his cause. Criminal law is set differentiated responsibility for the destruction and damage of property with the form of guilt. Article 167 of the Criminal Code provides for criminal liability for willful destruction or damage tage, Art. 168 - for the destruction of or damage to property due to negligence. Wines in the destruction of or damage to property under Art. 167 of the Criminal Code - deliberate (intent can be both direct and indirect) under Art. 168 of the Criminal Code - reckless, as thoughtlessness or carelessness. Deliberate form of guilt arises from the fact that the person is aware of the grave nature of the social destruction (damage) of other people's property, foresees a real possibility or inevitability of socially dangerous consequences in the form of significant harm to the owner or other lawful owner of the property and wishes of their occurrence or unwilling, but deliberately permits or pertains to him bezrazlichno.Harakternym to destroy (damage), for example, country estate property located in garages, basements, cellars, barns, is unspecified intent regarding the size of possible damage. Anticipation size is probabilistic in nature, and in the end it usually depends on the actual natupivshih consequences. The notion of unspecified intent does not know the criminal law, it has developed the theory of criminal law, so this kind of intent is simply a specific manifestation of the direct and indirect intent.Attitude theorists to unspecified (undefined) intent is ambiguous. Among the scientists were and are supporters of this species of intent, and the need to deny the existence and theoretical study and practical value [6, 157, 204, 99, 97-105].In domestic criminal law doctrine of the modern period is treated as an uncertain intent mental attitude of the person to the socially dangerous consequences of their actions, in which the perpetrator foresaw the possibility of a variety of socially dangerous consequences of his actions, and equally willing or unwilling, but knowingly permit any of them offensive or treated them indifferently. The magnitude of the damage is not specified, causing property act and its consequences are covered foresight guilty only in general form [7, 317, 381, 343-344]. In theory and practice also settled view that the intent of unspecified deed must always be qualified to actually of consequences.Careless form of guilt characteristic of crimes under Art. 168 of the Criminal Code. If the person who committed the act, foresaw the possibility of socially dangerous consequences in terms of property damage in the large size, but without sufficient reason confidently expects to prevent it, he acted thoughtlessly (Part 2 of Art. 26 of the Criminal Code). If it did not foresee the consequences of this, though, with the necessary care and prudence should have and could have foreseen it, the crime is considered committed through negligence (Part 3. 26 of the Criminal Code).The goal is not characteristic rash of crimes, the motive may be insufficient attention and concentration, excessive self-confidence, negligence, etc. Most common in the scientific literature, the subjective side of the point of view of theft is characterized not only by direct intention, but also selfish motive and purpose. In contrast to the selfish motives selfish objective is reflected in the legislative definition of theft (part 1 notes to Art. 158 of the Criminal Code).Under the selfish motive is often perceived inner conscious motivation parasitic nature that caused the determination to meet the material needs of the wrongful way, by taking possession of another's property. But there are several other, more acceptable definition. Number 4-2012 'greed as the motive of the crime - said BS Wolves - means that the basis of the motives of a socially dangerous act is the desire to receive any material benefit, advantage, "[8, 45]. A similar position is VV Moon.He believes that the profit motive - a desire to obtain material benefits of crime [9, 305].However, not all theorists recognize gain integral sign of theft. For example, PS Jani does not agree with this definition and believe that the theft - it acts committed not only with an ax to grind, but from a personal interest, including the mercenary motives [10, 79]. YM Antonian denies selfish motive of theft, but believes that it is not always an "independent." Independence author opposes calling selfish motive to meet the needs of a particular image, style and standard of living, and thus, deeper and usually unconscious motivational tendency to self-identity, preserving its inherent precisely this personal "I," his integrity [11, 49]. It seems there is no judgment in these arguments lack of independence of selfish motive. The author speaks about the purpose of self-serving motives, about the task he serves. As a result, the analytical study of dogmatic and empirical material, come to the conclusion that self-interest - quite an independent motive for the crime, and the fact that the crime may be present along with other motives, does not deny his independence, and evidence of competition reasons. In the legal literature are different classifications (s) of self-serving motivation. For example, MG Minenok and DM Minenok divided selfish aspirations for acquisitive (nakopitelskie), consumer, prestige and utilitarian [12, 82]. Seen as the most successful classification proposed ES Tenchovym and TM Yavchunovskoy. They secrete greed, poverty, greed, "debt", greed, parasitism, greed, consumerism, greed, hoarding, greed, prestige, greed, irresponsibility, greed, self-interest and the need for a production-disease [13, 138-142].But the combination of greed, irresponsibility raises some objections, primarily related to the fact that the term "frivolous" is associated with a careless form of guilt, specifically her views - criminal carelessness. Greed as a motive, characterized intentional crimes. So the combination of greed, carelessness, to some extent, contradictory.In the legal definition of theft (part 1 notes to Art. 158 of the Criminal Code) is not called selfish motive that generates wrong, in my view, the withdrawal of some theorists that theft can be committed without him, for other reasons. I also consider it appropriate to fix a legislative definition of theft selfish motive as a mandatory subjective sign that will promote a uniform interpretation of the concept, both in theory and in law enforcement. The selfish goal - this visualization person that the theft of another's property, it will get a real opportunity to own, use and dispose of them as its own: I personally use, exchange, sell, donate, transfer to pay off debt, etc. As selfish goal - required subjective sign theft, seizure of property for subsequent destruction of theft does not form. For example, the secret theft of one's property, combined with the deliberate destruction or damage of another, forming a real set of crimes and qualifies under Art. 158 and 167 of the Criminal Code. In theory and practice of criminal law recognized that the illegal seizure of another's property, does not pursue selfish goals, does not constitute theft. In particular, it can not be regarded as theft of the so-called "temporary borrowing the property" (the cashier takes the money from the cash register and then returning them) or the taking of the property due to falsely understood industrial interest (driver fleets willfully removes parts from the vehicle and put the one on which he runs, both cars belong to the fleet). Vehicle theft (Article 166 of the Criminal Code) is performed without the intent to steal. The perpetrator is not the desire to pay someone else vehicle in his or others illegal property, he grabs them for temporary use. It should be remembered, and that the acquisition of transport vehicle during the arrest of the offender, as well as in a state of emergency does not involve criminal responsibility by virtue of the provisions of Articles 38 and 39 of the Criminal Code, which imply that the behavior of the person performing his subjective right to arrest the offender, or the urgent need not only deprived of self-serving purposes, but is also useful for society. The Plenum of the Supreme Court in relation to the crime of "stealing a vehicle" is talking about the purpose of the trip or other purpose without the self-interest (see paragraph 28 of the Ordinance of December 9, 2008 № 25 "On judicial practice in cases of crimes related to violations traffic rules and operation of vehicles, as well as their misappropriation, without intent to steal "). However, a self-serving aspect of the motivation of criminal behavior in the hijacking of a vehicle is present, it can put in a bid to turn to their advantage the properties of another means of transportation. Motivating factor is the desire to have fun as well, the desire to drive, etc. Confirm this is the case of Sh on charges in the hijacking of the vehicle, who, taking advantage of a state of intoxication and following his dream mate drinking alcohol, P., captured the last car to visit relatives. On returning the car was voluntarily handed over to the rightful owner - the victim Sh P. Actions were classified under Art. 166 of the Criminal Code, because, wishing to temporarily use the car, he had no intention to convert him to their property, therefore, seized it without intent to steal [14, 21-22].Aims and motives of deliberate destruction (damage) of other people's property (Article 167 of the Criminal Code) can be very diverse. However, as a general rule they do not have self-interested color. And still at the crime selfish motive may occur, for example, if you receive compensation. In Part 2 of Art. 167 of the Criminal Code as a motive called hooliganism. That is the only motive that is reflected in the rules of Sec. 21 of the Criminal Code. The question of purpose in rash of crimes solved in different ways by theorists of domestic law: some deny it, others are talking about the purpose of the behavior that preceded the criminal result. I think, reckless crimes, including those against property, the goal is not peculiar to the motive can there be insufficient attention and concentration, excessive self-confidence, negligence, etc.

**Output.** Based on the analysis to come to a certain synthesis of theory and suggestions for improvement of the Russian criminal law:1) of the definition of legislative intent can not withdraw the category of "foresight" and "awareness" for the implementation of such a proposal is depleted in response intention, will not allow to fully reveal the face of intelligence work in the act with all its consequences;2) categories of possibility and inevitability must keep in the criminal law as it facilitates a more clear distinction between direct and indirect intent;3) the regulation of criminal responsibility for the crimes committed by the two forms of guilt, self-st. 27 Criminal Code - the great achievement of the Russian Criminal Sciences and a step forward in the development of Russian legislator Institute of guilt;4) in the legal definition of theft (part 1 notes to Art. 158 of the Criminal Code), it is advisable to fix selfish motive as a mandatory subjective sign that will promote a uniform interpretation of the concept, both in theory and in law enforcement;5) in the disposition of "c" Part 2 of Art. 164 of the Criminal Code to point to careless form of guilt.

**Literature:**

1. Векленко С.В. Уголовно-правовая оценка субъективной стороны состава преступления : учеб. пособие / С.В. Векленко, М.В. Бавсун. – Омск : Омская академия МВД России, 2006. – 103 с.

2. Мальков В.П. Субъективные основания уголовной ответственности / В.П. Мальков // Государство и право. – 1995. – № 1. – С. 93–99; Иванов Н. Умысел в уголовном праве России / Н. Иванов // Российская юстиция. – 1995. – № 12. – С. 16–17.

3. Питецкий В. Сужение понятия косвенного умысла влечет ужесточение уголовной репрессии / В. Питецкий

// Российская юстиция. – 1999. – № 5. – С. 49–50. 4. Лукьянов В. Исключить из УК статью об ответственности за преступления с двумя формами вины / В. Лукьянов // Российская юстиция. – 2002. – № 3. – С. 58–59.

5. Бикеев И.И. Ответственность за преступления, совершенные с двумя формами вины / И.И. Бикеев, Э.Ю. Латыпова ; под общ. ред. И.И. Бикеева. – Казань : Познание, 2009. – 228 с.

6. Спасович В.Д. Учебник уголовного права. Часть Общая / В.Д. Спасович. – Т. 1. – Вып. 1. – СПб : Тип. Иосафата Огризко, 1863. – 432 с.; Утевский Б.С. Вина в советском уголовном праве / Б.С. Утевский. – М. : Гос. изд-во юрид. лит-ры, 1950. – 319 с.; Тихонов К.Ф. Субъективная сторона преступления. Проблема соци- ального содержания вины в советском уголовном праве/ К.Ф. Тихонов. – Саратов : Приволжское книжное изд-во, 1967. – 104 с.; Злобин Г.А. Умысел и его формы / Г.А. Злобин, Б.С. Никифоров. – М. : Юрид. лит., 1972. – 262 с.

7. Курс уголовного права. Общая часть / под ред. Н.Ф. Кузнецовой, И.М. Тяжковой. – Т. 1. Учение о преступлении. – М. : ЗЕРЦАЛО, 1999. – 592 с.; Наумов А.В. Российское уголовное право. Курс лекций : в 3 т. – Т. 1. Общая часть / А.В. Наумов. – 4-е изд., перераб. и доп. – М. : Волтерс Клувер, 2007. – 710 с.; Верина Г.В. Глава 9. Субъективная сторона преступления / Г.В. Верина // Уголовное право России : курс лекций : в 6 т. / под ред. Б.Т. Разгильдиева. – Саратов : Изд-

во ГОУ ВПО «Саратовская государственная академия права», 2008. – Т. 2. – С. 321–378.

8. Волков Б.С. Мотивы преступлений (уголовно- правовое и социально-психологическое исследование) / Б.С. Волков. – Казань : КГУ, 1982. – 152 с.

9. Криминология : учебник / под ред. Н.Ф. Кузнецовой, Г.М. Миньковского. – М. : БЕК, 1998. – 566 с.

10. Яни П.С. Экономические и служебные преступления. – М. : Бизнес-школа «Интел-Синтез», 1997. – 201 с.

11. Криминальная мотивация / отв. ред. В.Н. Кудрявцев. – М. : Наука, 1986. – 305 с.

12. Миненок М.Г. Корысть. Криминологические и уголовно-правовые проблемы / М.Г. Миненок, Д.М. Миненок. – СПб : Юридический центр Пресс, 2001. – 367 с.

13.Тенчов Э.С. Корыстная мотивация преступлений / Э.С. Тенчов, Т.М. Явчуновская // Современные проблемы правоведения. – Кемерово : Изд-во Кемеровского ун-та, 1994. – С. 138–142.

14. Бюллетень Верховного Суда Российской Федерации. – 2000. – № 2.

**Верина Г. В. Психологічний зміст злочинів проти власності**

**Анотація. У цій статті представлена ​​авторська позиція про особливості прояву інтелектуальної, вольової та емоційної сфер особи при вчиненні злочинів проти власності.**

**Ключові слова: злочини проти власності, психічна діяльність людини в момент скоєння злочину, вина, мотив, мета, емоції.**

**Verina G.V. Phychological content of crimes against property**

**Summary.** The article presents the author’s position on features of manifestations of intellectual, volitional and emotional spheres of person during commission of crimes against property.

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