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INFORMATIONAL AND ECONOMIC SECURITY AS A GUARANTEE TO SECURITY AGAINST RAIDING

The article examines the information and economic security of the enterprise and its importance in the process of security against raiding. The internal and external factors that affect the functioning of the business have been analyzed and the importance of information security in the process of forming an appropriate economic business environment has been proven. A number of signs of business attractiveness for raiders are given. The absence of a single definition of raiding in the national legislation was pointed out and foreign legislation in this area was analyzed. Proposals have been formulated to protect the economy from socially dangerous acts in the form of raiding.

Keywords: *raiding, economic security, information security, business, protection risk.*

Economic security of business is a state of the most effective use of resources and business opportunities to ensure stable functioning and dynamic development. This is the state of the business entity, in which due to countering the negative impact of internal and external threats and dangers, its stable and maximally efficient functioning as of today and a high potential for development in the future are ensured [1, p. 3].

The economic security of the enterprise forms the ability of the enterprise to develop, increase its competitiveness and the competitiveness of its products, maintain its positions in competitive markets, characterizes the strength and economic potential of enterprises to counteract the negative influence of the external and internal environment.

Numerous external and internal factors affect the functioning and development of a business. Numerous threats to economic security can lead to negative consequences in the form of a violation of solvency and financial stability, a decrease in profitability and other deterioration of business activity. In this connection, the relevance and necessity of ensuring the economic security of enterprises is increasing.

One of the real threats to the economic security of business in Ukraine today is raiding.

Raiding is a successful and profitable business that specializes in illegally taking control of businesses and their assets for selfish purposes.

Any business can become the object of raider threats, regardless of its assets, results of economic activity, industry and regional affiliation. Stakeholders, individuals and legal entities, competitive organizations, credit organizations, insurance companies, state and local authorities, mass media can be the subjects of raiding.

Economically attractive businesses with high profitability and a vulnerable ownership or management structure are most often raided [2].

The faster and more powerfully the economy develops, the faster the rate of raider attacks grows. About four hundred raider attacks are recorded in Ukraine every year. And if you analyze the statistics, you can immediately notice that such attacks most often occur in areas with a fairly high level of economic development, that is, where there are economically attractive enterprises.

Medium and large businesses with highly liquid assets in the fields of construction, real estate management, agribusiness, as well as retail, where more than 50% of the authorized capital or shares of a legal entity are concentrated in the hands of one owner, remain vulnerable to raiders in Ukraine [2].

A number of signs can be identified that signal the attractiveness of the enterprise for raiders. Among them, the main one is the collection of economic, legal and social information about the company. Raiders are interested in:

– documents (founding, privatization, internal (regulations, regulations), about the company's assets, its debt obligations, etc.);

– information (about the market position of the enterprise; its social policy; about the closeness of the management to the administrative resource; about lawsuits and decisions regarding the employees of the enterprise, dismissed earlier, in particular);

– rumors (about conflicts in the enterprise, especially between owners, management and subordinates; about the private life of top managers and other key persons on whom the effective operation of the enterprise depends).

Raiders not only analytically process the received information, but they themselves can actively model and implement situations that will harm the economic, financial, personnel and interface policies of the business entity [3].

Paradoxically, this socially dangerous act appeared quite a long time ago, but until now no effective mechanisms have been found to counteract it. The state tries to fight this phenomenon by strengthening administrative and criminal liability, but in practice this does not stop illegal actions and does not prevent them.

Unfortunately, until now in Ukraine, the issue of defining the concept of «raiding» in criminal legislation has not been settled. Therefore, raiding as a separate component of a criminal offense is still not recorded in the official statistics of law enforcement agencies and courts. Instead, there is an exhaustive list of articles of the Criminal Code of Ukraine, according to which scenarios attacks on property and corporate rights by criminals take place [2].

In 2021, the Draft Law «On Amendments to Certain Legislative Acts on Strengthening Liability for Certain Criminal and Administrative Offenses in the Field of Economic Activities, Official Activities, Activities of Persons Providing Public Services and Criminal

Offenses Against the Authority of State Authorities» was registered, which proposes to settle the issue of proportionality and individual nature of punishments imposed for the commission of criminal offenses in the field of economic activity, which includes raiding, but unfortunately, today is already 2022, but this draft law is only accepted as a basis.

If you analyze the legislation of economically developed countries that protect the right to property, you can see that in most of these countries, the existence of such a socially dangerous act as raiding is made impossible at the legal level, and in those countries where it is encountered, a whole complex has been developed there normative legal acts that regulate this issue.

In the European Union and the United States of America, the concept of only «white» raiding exists today. It means a completely legal takeover by one company of another or the purchase of a block of shares of one shareholder by another. And even though all this happens absolutely legally, society openly condemns «white» raiding, because it is believed that in such a situation there is an injured party and it must be protected.

A raider in the West is a company that absorbs other companies, buying the shares of the victim company in order to obtain its controlling stake; and raiding – both the usual and absolutely legal acquisition of an organization without the consent of the actual owner and management, as well as forceful seizure for the purpose of changing the owner [4, p. 209].

The legislation of Western countries successfully stops the capture of foreign businesses. The legal field functions in such a way that it is easy to prosecute the guilty and prove their involvement. Our state should strive to create similar transparent laws.

Foreign researchers of corporate control markets of the leading countries of the world (K. Milhauf, V. Schwert, A. Shleifer, R. Vishny, S. Claisens, J. Fan) offer quite powerful methods and risk protection systems against unfriendly takeovers. However, it should be noted that Western preventive measures are aimed at joint-stock companies, operate in a balanced legislative field and are designed for the legal redistribution of property rights. Therefore, the introduction of foreign methods and systems of risk protection of business entities against raider attacks requires adaptation to the specific transformational (war and post-war) economy of Ukraine [3].

The analysis of the statistics of the Office of the Prosecutor General for 2017–2022 shows that the number of raids in Ukraine increased rapidly, and the corresponding reaction from the state authorities was very low. Over the past 5 years, 1,690 raids have taken place in Ukraine. According to the data contained in the Unified State Register of Court Decisions in 2017, there were only 2 court verdicts regarding raider seizures; in 2018 – 3 sentences; in 2019, there are only 2 sentences (one of which has not entered into force) [5]. In 2021 and the beginning of 2022, 322 new raider attacks were recorded, while in 2020 there were 849 of them. Of all the reported cases in 2021–2022, only 101 proceedings were brought to court. Such data testify to the complete ineffectiveness of the work of law enforcement agencies in the context of the investigation of criminal offenses in this area.

In our opinion, the economic downturn in connection with the spread of the coronavirus disease (COVID-19) and the waging of a full-scale war in Ukraine somewhat slowed down the rapid growth of raiding captures during 2020–2022, but this is a short-term period and

soon a new round of development of this socially dangerous act and also with the use of new ways of committing them with the use of cyber means [6, p. 122; 7, p. 236; 8].

Any crisis causes the onset of negative phenomena associated with the violation of rights and interests protected by law. The consequences of the pandemic will be felt for a long time both in the social sphere and in business, so it is time to pay attention to the issue of business protection in the conditions of the transition from the quarantine to the post-quarantine period.

The weakening of commercial protection has become a natural consequence of the decline in the development of the global business system, because currently most of the forces are directed at the general ability to function, and not at countering illegal encroachments by offenders. At the same time, countering raiding cannot be premature, because the construction of defenses must be done even before the attack. In the fight for ownership, the winner is the most prepared player [9].

Summarizing the above, it is necessary to emphasize that raiding in Ukraine occurs due to the failure to eliminate the causes and problematic issues in the current legislation, which provide a basis for the emergence and existence of raiding as a phenomenon. The unstable political situation and corruption in state institutions create prerequisites for high profitability of illegal seizure of other people's property and criminal raiding activities.

Just as there is no single concept of «raiding» in the legislation and a specific article that would regulate this social phenomenon, the criminal-legal qualification is simply a complex of several components of criminal offenses, which complicates the work of law enforcement agencies. We believe that in order to solve the problem of inefficiently bringing raiders to justice for a set of criminal offenses, it is necessary to create a special method of investigating such offenses and ensure the training of highly qualified personnel who would skillfully use this method. In our opinion, it would be expedient to strengthen information security both at enterprises, institutions, organizations, regardless of the form of ownership, and in the country as a whole. In order to create an effective information security system of the enterprise, it is necessary to: identify and control probable channels of information leakage at the enterprise; constantly control the access of employees to corporate information resources, establish the level of access to only that information that is necessary for work by job instructions; it is necessary to keep an archive of transactions with documents, to archive postal correspondence; monitor the outgoing flow of electronic messages that may threaten the leakage of confidential information; perform monitoring at the level of file operations; monitor the use of mobile information storage devices, information transmission devices and communication ports; choose the right personnel, using material and moral incentives; establishment of a favorable social and psychological climate within the enterprise, creation of opportunities for professional growth of personnel, promotion of reduction of personnel turnover, formation of a positive atmosphere within the company.

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Т. П. Яцик. Інформаційно-економічна безпека як запорука убезпечення від рейдерства

У статті розглядається інформаційно-економічна безпека підприємства та її значення у процесі убезпечення від рейдерства. Проаналізовано внутрішні та зовнішні фактори, які впливають на функціонування бізнесу, та доведено важливість інформаційної безпеки в процесі формування належного економічного середовища бізнесу. Наведено ряд ознак привабливості бізнесу для рейдерів. Звернено увагу на відсутність єдиного визначення рейдерства у національному законодавстві та проаналізовано зарубіжне законодавство в цій сфері. Сформовано пропозиції щодо убезпечення економіки від суспільно-небезпечних діянь у вигляді рейдерства.

Ключові слова: *рейдерство, економічна безпека, інформаційна безпека, бізнес, ризик захисту.*

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