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**Some questions on the criminal and legal characteristic of fraud in the modern legislation of the Russian Federation**

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In the law this crime is defined as plunder of someone's property or buying it by deception or breach of confidence. According to the indication of the criminal law a subject of fraud is not only property (as at other forms of plunder), but also the right for someone's property. Therefore, by that point a fraud should be distinguished from other forms of plunder. This circumstance is the usual basis for distinguishing two varieties (compositions) of fraud: plunder of property and the right to purchase it. Thus the last not always admits as plunder. This approach cannot be considered arising from the content of the law and justified under any other circumstances. The right for property really represents in criminal law a specific (other than a thing) encroachment subject. It is allocated legislatively in corpuses of fraud (Art. 159) and extortion (Art. 163), perhaps, without the sufficient civil bases, but allowing for the manifestation of the objective side of these types of crimes against property, by fraud or breach of trust or by criminal claims, it can be possible to receive not only things, but also the right for property. This is impossible, for example, in the commission of theft and robbery.[1] The objective side of fraud is the theft of person's property or acquiring the rights for it, perpetrated by fraud or breach of trust. The word "by" characterizes a primarily means of recovering and handling other people's property or rights for it. A distinctive feature of fraud is that the victim transmits to guilty his property or the right for it by himself, but does it still involuntarily. The defect of his will is generated by the delusion caused by fraud or breach of trust. Voluntariness turns imaginary invalid in fact, and the transfer of the property, is unlawful therefore. Fraudulent deception is the impact on the consciousness of the victim, and requires the participation of the victim (personal or through representatives) in transferring of property benefits to guilty.[2] Breach of trust as a way of theft in the form of fraud is that the perpetrator uses a trust relationship established (or established) between the guilty and the owner of the property (or other person), in order to seize his property. The Resolution of the Plenum of the Supreme Court from 27 December 2007 № 51 emphasizes that breach of trust "also takes place in the case of the assumption of liabilities with a person known to be absent in his intent to run for the purpose of gratuitous treatment in their favor or in favor of third parties or acquisition of another's property rights to it (for example, getting an individual loan, advance payment for the performance of work and services, advance payment for the supply of the goods, if it does not intend to return to duty, or otherwise perform its obligations).[3] Breach of trust is often combined with deception, that suggests that it is actually is cannot be found in pure form. Really, in these ways there is something the general: the property or the right for it is transferred to guilty by the owner or other owner, but under the influence of delusion. Origins of this error, its bases may be different. In the aforementioned Resolution of the Plenum of the Supreme Court of 27 December 2007 № 51 states that the trust, which put to guilty, can be caused by various circumstances, for example an official position of such person either the a personal or family relationship with the victim. Proceeding from such assessment of the moment of the termination of this type of fraud, we can conclude that through the acquisition of another's property perpetrator actually detract from people's property and thus enrich themselves. Fraud can be committed under the qualifying and particularly qualifying circumstances. The law classifies such kind of fraud by the commission of a crime by a group with a preliminary conspiracy, causing significant damage to the citizen (p. 2, Art. 159), by a

person using his official position, or in the large size (p. 3, Art. 159), and by an organized group or on a large scale (p. 4, Art. 159). There are a lot of structures of plunder in the law, and it is important to be able to distinguish them, so that the person was prosecuted just for his crime, and not for other wrongful act. Let's take, for example, theft, which is devoted in Article 158 of the Criminal Code. Fraud differs from this illegal action in way of commission. In stealing, theft committed secretly and directly by the guilty. But in the case that was considered by us a victim leaves property voluntarily and under the influence of delusion. But they have the same object - property relations. Even you shouldn't compare to the crime considered by us the evasion from repayment of the credit which is comprised by article 177 of the Criminal Code of Russian Federation. Fraud differs from this illegal act by all obligatory signs. These crimes are so different that even contained in the various chapters of the Criminal Code of the RF.

#### **Источники и литература**

- 1) Resolution of the Plenum of the Supreme Court of the Russian Federation of December 27, 2002 N 29 "On judicial practice in cases of theft, burglary and robbery"(with rev. February 6, 2007) // Bulletin of the Supreme Court. 2007. № 2
- 2) The Constitution of the Russian Federation. December 12// "Rossiyskaya Gazeta 2014
- 3) The Criminal Code of the Russian Federation of 13.06.1996 № 63-FL (ed. from 02.03.2014) // PCA "Consultant@"

#### **Слова благодарности**

Thank you.