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PROBLEMATIC SIGNS OF CRIMINAL BANKRUPTCIES AND RULES FOR THEIR QUALIFICATION: “SIGNS OF BANKRUPTCY” AND “INABILITY TO SATISFY CREDITORS’ CLAIMS”

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The subject of this study is the provisions of Russian criminal law concerning criminal bankruptcy, as well as the provisions of Russian bankruptcy law regarding the elements of a debtor’s bankruptcy.
The aim of this article is to provide a scientific justification for the hypothesis that the circumstances of the commission of the crime provided for in Article 195 of the Criminal Code of the Russian Federation (“signs of bankruptcy”) are identical in substance to the consequences of the crime provided for in Article 196 of the Criminal Code of the Russian Federation (“inability to satisfy creditors’ claims”) and are determined by the signs of objective bankruptcy.
Methodology. Specialized legal methods were also used. In particular, the comparative legal method was used to compare the provisions of Russian criminal legislation on criminal bankruptcy with Russian bankruptcy legislation in order to identify common features and differences in the examined signs of criminal bankruptcy in these branches of Russian law. The formal-legal method is used to analyze bankruptcy legislation in order to substantively define the characteristics of the provisions on criminal bankruptcy. Using a systemic-structural approach, this study analyzes and systematizes such objective elements of the crimes defined in Articles 195 and 196 of the Criminal Code of the Russian Federation as “signs of bankruptcy” and “inability to satisfy creditors’ claims.”
Main results. The author proposes rules for distinguishing the provisions of Article 195 from Article 196 of the Criminal Code of the Russian Federation, firstly, by the circumstances in which these crimes are committed and, secondly, by their subjective side (intent).
Conclusions. The “signs of bankruptcy” in Article 195 of the Criminal Code of the Russian Federation and “the debtor’s inability to fully satisfy creditors’ claims for mandatory payments” in Article 196 of the Criminal Code of the Russian Federation should be understood as the debtor’s total liabilities exceeding the actual value of its assets (objective bankruptcy). Unlike Parts 1, 1.1, and 5 of Article 195 of the Criminal Code of the Russian Federation, the acts provided for in Article 196 of the Criminal Code of the Russian Federation are committed in the absence of circumstances indicating that the total amount of the debtor’s liabilities exceeds the actual value of its assets (objective bankruptcy), but with the intent to bring about such a situation.

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1. INTRODUCTION

1.1. Relevance of the research

In 2021, significant changes were made to Articles 195 and 196 of the Criminal Code of the Russian Federation aimed at improving the effectiveness of countering crimes in the field of bankruptcy[1]: The qualifying features of the objective side have been introduced (use of official position, commission of a crime by a group of persons, an organized group) and the range of special subjects has been expanded (the person controlling the debtor, his head, the arbitration administrator, the liquidator), as well as special grounds for exemption from criminal liability.[2].

However, the goal set by the legislator was not achieved: the number of people convicted in criminal bankruptcy cases has not changed significantly (90 persons in 2018-2020 versus 100 persons in 2022-2024)[3], this indicates the stagnation of criminal law enforcement.

At the same time, bankruptcy arbitration practice is showing steady growth: the proportion of satisfied applications for subsidiary liability is increasing (from 29% in 2020 to 52% in 2024)[4] and the number of satisfied claims for invalidation of transactions (in 2020, out of 7,112 applications reviewed, 3,330 were satisfied, and in 2024, out of 15,631 applications reviewed, 6,982 were satisfied)[5].

This discrepancy in statistics allows us to conclude that the protection of the interests of the debtor's creditors in criminal proceedings is actually provided not by the norms on criminal bankruptcies, but by related structures (Articles 159, 160, 201 of the Criminal Code of the Russian Federation, etc.), which is largely due to the uncertainty of understanding the situation of these crimes.

1.2. Problem statement

Thus, the provisions of Article 195 of the Criminal Code of the Russian Federation establish criminal liability for unlawful actions in bankruptcy only if they are committed in the presence of signs of bankruptcy [1, p. 410]. In turn, the provisions of Article 196 of the Criminal Code of the Russian Federation establish criminal liability for intentional bankruptcy only if the actions of the guilty person, obviously for him, entail the debtor's inability to fully satisfy creditors' claims for payment of mandatory payments [2]. But what is meant by these terms for the purposes of criminal law qualification, how do they relate to each other, and is it possible, based on their content, to formulate rules for distinguishing these crimes from each other and other related compounds? To answer these questions, it is necessary to refer to blank bankruptcy legislation and judicial practice in cases of insolvency and criminal bankruptcy.

2. THE MAIN PART

2.1. Definition of the content of "signs of bankruptcy" for the purposes of qualifying illegal actions in bankruptcy (art. 195 of the Criminal Code of the Russian Federation)

An analysis of insolvency law, judicial practice and doctrine shows that "signs of bankruptcy" for the purposes of Article 195 of the Criminal Code of the Russian Federation are interpreted broadly and cover both formal criteria and signs of insolvency and insufficiency of the debtor's property. At the same time, the most common position reflected in judicial practice in criminal bankruptcy cases is to understand them as criteria explicitly set out in Federal Law No. 127-FZ of October 26, 2002 "On

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[1] See: Explanatory Note to Draft Law No. 1099900-7 "On Amendments to Articles 195 and 196 of the Criminal Code of the Russian Federation and Article 31 of the Code of Criminal Procedure of the Russian Federation". The system of ensuring the legislative system. URL: https://sozd.duma.gov.ru / bill/1099900-7 (accessed: 05/13/2025).

[2] Russian Federation. Laws. On Amendments to Articles 195 and 196 of the Criminal Code of the Russian Federation and Article 31 of the Code of Criminal Procedure of the Russian Federation: Federal Law No. 241-FZ of 07/01/2021. URL: https://www.consultant.ru/document/cons_doc_LAW_388779 / (date of access: 05/13/2025).

[3] See: Criminal proceedings. Data on the punishment imposed under the articles of the Criminal Code. Judicial statistics of the Russian Federation. – URL: https://stat.xn----7sbqk8achja.xn--p1ai/stats/ug/t/14/s/17 (date of request: 05/13/2025).

[4] See: Bankruptcy in Russia. Statistical bulletin of the Federal Resource. Results of 2024. Fedresurs. URL: https://clck.ru/3M3jd8 (date of request: 05/13/2025).

[5] See: Ibid.

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Insolvency (Bankruptcy)"[6] (hereinafter – the Federal Law on Bankruptcy).

Review of legislation: raising issues arising from its content

From the provisions of the Federal Law on Bankruptcy, in particular parts 2 and 3 of art. 3, part 1 of art. 189.8, art. 213.4, 214 and other norms, it follows that the content of formal criteria for bankruptcy is differentiated depending on the type of debtor — a legal entity (including its special types, such as credit institutions), a citizen or an individual entrepreneur. In this regard, it seems advisable to analyze these features using the example of a legal entity. Thus, in the literal interpretation of Part 2 of art. 3 of the aforementioned law, it can be concluded that the signs of bankruptcy of a legal entity are considered established if there is a fact of non-fulfillment of monetary obligations within three months from the date of their due date. At the same time, the amount of the corresponding obligations has no legal significance for the recognition of this circumstance.

At the same time, according to Part 2 of Article 6 of the Federal Law on Bankruptcy, bankruptcy proceedings of a legal entity are possible only with cumulative claims to it in the amount of at least two million rubles. This raises two questions: (1) does criminal prosecution in cases of criminal bankruptcy depend on the decision of the arbitration court to declare the debtor bankrupt? (2) is a three-month delay in fulfilling obligations sufficient to recognize formal signs of bankruptcy for the purposes of applying Article 195 of the Criminal Code of the Russian Federation, or is it also necessary that the amount owed exceeds two million rubles?

The answer to question № 1

Review of judicial practice

An analysis of judicial practice in criminal bankruptcy cases demonstrates that in the vast majority of cases, courts come to the conclusion that "the beginning of the period in which the actions (inaction) referred to in Part 1 of Article 195 of the Criminal Code of the Russian Federation may be committed is not even related to the beginning of bankruptcy proceedings by the arbitration court, moreover, it is not related with the adoption of decisions on the introduction of any of the procedures used in the bankruptcy case"[7]. Meanwhile, sometimes in judicial practice there are also reverse decisions[8].

Review of scientific literature

In the scientific literature, most scientists also believe that in order to initiate criminal proceedings on criminal bankruptcy and, consequently, to make a court decision on its merits, an arbitration court decision on declaring the debtor bankrupt is not required. This point of view is shared, in particular, by Volzhenkin B.V. [3, p. 406], Lopashenko N.A. [4, p. 621], Lyaskalo A.N. [5, p. 18], Yani P.S. [6, p. 40]. However, there is also an opposite point of view in the literature, which is held, in particular, by Gorelik A.I., Shishko I.V., Khlupina G.N. [7, p. 135] and Khristenko E.V. [8, p. 16].

The author's opinion

It seems to us a more convincing point of view, according to which the procedure of criminal proceedings is not dependent on the arbitration procedure for declaring the debtor bankrupt, since the material and legal grounds for its initiation are not always determined by objective circumstances (for example, bankruptcy proceedings may not begin due to subjective reasons, expressed in violations of the requirements of the applicants for the application for recognition of the debtor 44 of the Federal Law on Bankruptcy is the basis for the return of this application).

The answer to question 2

Review of judicial practice

In judicial practice in cases of misconduct in bankruptcy (Article 195 of the Criminal Code of the Russian Federation), the prevailing approach is that

[6] Russian Federation. Laws. On insolvency (bankruptcy): Federal Law No. 127-FZ dated 26.10.2002 (as amended on 26.12.2024). URL: https://www.consultant.ru/document / cons_doc_LAW_39331/ (accessed: 05/13/2025).

[7] See, for example, the appeal verdict of the Voronezh Regional Court of 09.02.2024 in the case № 22-73/2024(22-3283/2023), The verdict of the Kuibyshevsky District Court of Omsk dated 04/29/2022 in case No. 1-36/2022, the verdict of the Kirovsky District Court of Samara dated 16.03.2021 № 1-127/2021 (1 - 775/2020;).

[8] See, for example, the Verdict of the Sovetsky District Court of Chelyabinsk in criminal case No. 1-90/2011. GAS RF "Justice".

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formal "signs of bankruptcy" of a legal entity are established if there are two conditions: a three-month delay in fulfilling obligations and reaching the threshold amount of claims provided for in Part 2 of Article 6 of the Federal Law on Bankruptcy[9].

In judicial practice, there is also (albeit much less frequently) an approach according to which "signs of bankruptcy" of a legal entity are present for the purposes of applying the provisions of art. 195 of the Criminal Code of the Russian Federation if it has delayed the fulfillment of its monetary obligations for a period of more than three months, and the amount of this obligation exceeds or is equal to the amount of the criminalizing amount set out in the note to 170.2 of the Criminal Code of the Russian Federation. At the same time, the fact that the amount of this obligation is equal to or exceeds the threshold value established by Part 2 of art. 6 of the Federal Law on bankruptcy, in which a bankruptcy case may be initiated for a legal entity, does not matter.[10].

Both of these approaches seem to be erroneous, since they ignore the actual financial condition of the debtor: the delay itself does not indicate insolvency and may be due to other reasons (for example, the debtor disputes the existence of the debt). This is confirmed by the position of the Supreme Arbitration Court of the Russian Federation, expressed in paragraph 6 of its Plenum Resolution No. 63 dated December 23, 2010[11], according to which, formal signs of bankruptcy are not enough to conclude that creditors have been harmed — it is necessary to establish the insolvency or insufficiency of the debtor's property.

According to art. 2 of the Federal Law on Bankruptcy, insolvency is understood as the termination of the debtor's performance of part of monetary obligations or obligations to pay mandatory payments caused by insufficient funds. It is about insolvency as a sign of the situation of a crime under Article 195 of the Criminal Code of the Russian Federation that is discussed in the doctrine of criminal law.

Review of scientific literature

Thus, Subachev A.K. notes that "the essential sign of the debtor's insolvency is precisely his lack of funds sufficient to fulfill obligations that have expired" [9, p. 126]. Lyaskalo A.N. adheres to a similar point of view, who notes that "within the meaning of art. 195 of the Criminal Code of the Russian Federation, signs of bankruptcy are understood as insolvency, that is, the termination of the debtor's fulfillment of part of its monetary obligations or the obligation to pay mandatory payments caused by insufficient funds" [10, p. 30]. Taishaov Z.A. with regard to the bankruptcy of a citizen, he says that "the signs of bankruptcy of a citizen in the dispositions of Parts 1 and 2 of art. 195 of the Criminal Code of the Russian Federation are understood as a set of the following signs: insolvency, materiality of the amount of unfulfilled claims (at least 500 thousand rubles), maturity of claims, duration of non-fulfillment of claims (3 months)" [11, p. 73].

The author's opinion

From our point of view, using the criterion of insolvency to determine "signs of bankruptcy" in the context of art. 195 of the Criminal Code is preferable to a formal approach, since in this case it takes into account the debtor's real financial situation to a greater extent. However, it seems that in order to bring a person specifically to criminal responsibility, as well as, for example, to subsidiary responsibility for economic transactions in the presence of signs of

[9] See, for example: The appeal decision of the Astrakhan Regional Court dated 08/22/2023 in case No. 22-1383/2023, the Appeal decision of the Supreme Court of the Republic of Crimea dated 01/31/2023 in case No. 22-42/2023, the Decision of the Leninsky District Court of Krasnodar dated 08/14/2024 in case No. 1-180/2024.

[10] See, for example: The appeal verdict of the Chelyabinsk Regional Court dated 12.09.2017 in case No. 10-3650/2017, the Appeal ruling of the Sverdlovsk Regional Court dated 05.07.2016 in case No. 22-4682/2016, the verdict of the Karpinsky City Court of the Sverdlovsk Region dated 17.08.2020 in case No. 1-91/2020, the verdict of the Russian-Polyansky District Court of the Omsk region dated 02.03.2020 in case No. 1-3/2020.

[11] Russian Federation. The Plenum of the Supreme Arbitration Court. On some issues related to the application of Chapter III.1 of the Federal Law "On Insolvency (Bankruptcy): Resolution No. 63 dated December 23, 2010 (as amended on December 17, 2024). SPS "ConsultantPlus" // [Electronic resource]. – URL: https://www.consultant.ru/document/cons_doc_LAW_109923 / (date of access: 05/13/2025).

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insolvency, it is not enough to establish the fact that the debtor does not have money in itself, since it does not yet indicate his objective inability to satisfy creditors' claims.

The Supreme Court of the Russian Federation consistently speaks about this, introducing the term "objective bankruptcy" in paragraph 4 of the Resolution of the Plenum of the Supreme Court of the Russian Federation dated December 21, 2017 No. 53 [12], according to which "for the purposes of applying special provisions of the legislation on subsidiary liability, as a general rule, the control that took place in the period preceding the actual occurrence of signs of bankruptcy is taken into account, regardless of whether the debtor's actual financial condition was hidden or not, that is, the three-year period preceding the moment when the debtor became unable to to fully satisfy creditors' claims, including the payment of mandatory payments, due to the excess of the total amount of liabilities over the real value of its assets (hereinafter referred to as objective bankruptcy)."

In continuation of the logic that it is the fact of objective bankruptcy, i.e. the insufficiency of the debtor's entire property, which can be levied in the bankruptcy case, should be a criterion that determines the situation in which a person (for example, controlling the debtor) commits a crime or offenses for which he may be held criminally or vicariously liable. The Supreme Court of the Russian Federation points out that "non-payment of a debt to a creditor under a specific contract itself This does not indicate the objective bankruptcy of the debtor, and therefore cannot be considered as an unconditional proof., confirming the need for its head to apply to the court for bankruptcy", and, accordingly, as a basis for bringing a person to subsidiary liability[13].

Meanwhile, this point of view is mostly not confirmed in criminal judicial practice in cases of misconduct in bankruptcy, which notes that "the conclusion that there are signs of bankruptcy of a legal entity, with the exception of credit institutions, does not depend on whether the economic condition of the organization made it possible to fulfill obligations (obligations) to creditors. Signs of bankruptcy are considered established from the moment when a legal entity has not fulfilled monetary obligations and (or) obligations to pay mandatory payments within three months from the date when they should have been fulfilled."[14]. A similar point of view can be found in the arbitration court practice in insolvency cases, according to which "the fact that the debtor owns immovable property, the value of which exceeds the amount of debt, is not a reason for refusing to satisfy the debtor's application (approx. declaring him bankrupt)" [15]. There is also agreement with this approach in the doctrine of criminal law. For example, P.S. Yani notes that "the same circumstance (approx. exceeding the amount of the debtor's obligations (the value of his property) is not a condition for concluding that there are signs of bankruptcy of a legal entity – the value of his property may exceed the amount of his obligations" [6, p. 39].

Conclusion

Thus, bankruptcy legislation, judicial practice and doctrine indicate a differentiated understanding

[12] Russian Federation. The Plenum of the Supreme Court. On some issues related to bringing persons controlling the debtor to responsibility in bankruptcy: resolution No. 53 dated December 21, 2017. URL: https://www.consultant.ru/document/cons_doc_LAW_286130 / (date of access: 05/13/2025).

[13] Russian Federation. The Presidium of the Supreme Court. Review of Judicial Practice No. 1 (2021), paragraph 19 (approved by the Presidium of the Supreme Court of the Russian Federation on 04/07/2021). URL: https://www.consultant.ru / document/cons_doc_LAW_381735/ (accessed: 05/13/2025).

[14] See, for example: The appeal verdict of the Voronezh Regional Court of 09.02.2024 in the case № 22-73/2024(22-3283/2023), Appeal resolution of the Astrakhan Regional Court dated 02/25/2021 No. 22-321/2021, Verdict of the Kirovsky District Court of Samara from 16.03.2021 № 1-127/2021(1-775/2020), Verdict of the Chukhloma District Court of the Kostroma region dated 30.08.2019 in case No. 1-59/2019.

[15] See, for example: Resolution of the Arbitration Court of the Far Eastern District dated 30.01.2024 No. F03-6366/2023 in case No. A51-2828/2023, Resolution of the Arbitration Court of the Moscow District dated 09.11.2023 No. F05-27234/2023 in case No. A40-33839/2023, Resolution of the Arbitration Court of the North Caucasus District dated 12.08.2021 No. F08-7815/2021 in case No. A15-4801/2020.

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of the "signs of bankruptcy" depending on the legal objectives. Thus, to initiate bankruptcy proceedings for a legal entity, they are reduced to a formal three—month default, whereas to bring to subsidiary liability, they are reduced to objective bankruptcy, which is expressed in the excess of the debtor's obligations over the value of his assets.

In this regard, it seems reasonable to use the criterion of objective bankruptcy in determining the situation of illegal actions in bankruptcy for the purposes of criminal (and subsidiary) liability.

2.2. Definition of the content of "inability to satisfy creditors' claims" for the purposes of qualifying intentional bankruptcy (art. 196 of the Criminal Code of the Russian Federation)

Next, we will consider the content of such an objective sign of deliberate bankruptcy (Article 196 of the Criminal Code of the Russian Federation). as "the debtor's inability to fully satisfy creditors' demands for payment of mandatory payments."

Review of judicial practice

Traditionally, criminal judicial practice, defining this feature of the objective side of deliberate bankruptcy, indicates that "within the meaning of the law, actions that knowingly entail inability to satisfy creditors' claims are understood as an intentional act aimed at causing or increasing a person's insolvency." [16] . In turn, insolvency is understood as "termination of the debtor's performance of part of monetary obligations or obligations to pay mandatory payments caused by insufficient funds" (art. 2 of the Federal Law on Bankruptcy)[17].

Review of scientific literature

A similar point of view can be found in the doctrine of criminal law. For example, A.N. Lemyagov believes that "this is a crime (approx. intentional bankruptcy) is the deliberate creation or increase of insolvency" [12, p. 22]. Gulyi A.A. also argues that "the objective side of deliberate bankruptcy, according to art. 196 of the Criminal Code of the Russian Federation, is the creation or increase of insolvency, which caused major damage" [13, p. 16]. A similar point of view is presented in other literary sources. [14; 15; 16, 17, 18].

The author's opinion

Meanwhile, this point of view seems indisputable. The identification of the terms "insolvency" and "debtor's inability to fully satisfy creditors' claims for payment of mandatory payments" for the purposes of bringing a person to criminal, as well as subsidiary liability, contradicts the position of the Supreme Court of the Russian Federation.

Thus, canceling the decisions of lower courts on bringing the debtor's controlling person to subsidiary responsibility for bringing the debtor to a state of insolvency, the Supreme Court of the Russian Federation pointed out that the courts "mistakenly identified the concepts of "insolvency" and "bankruptcy", which should be understood as "the debtor's inability to fully satisfy creditors' demands for payment of mandatory payments."". In this regard, the Supreme Court of the Russian Federation also pointed out that "subsidiary liability of a participant occurs when, as a result of his behavior, the debtor has not just suffered property damage, but has become bankrupt, that is, a person who cannot satisfy creditors' claims and fulfill public duties due to a significant decrease in the volume of his assets under the influence of a controlling person."[18].

Conclusion

Thus, it seems correct to understand "the

[16] Cassation ruling of the Second Cassation Court of General Jurisdiction dated 24.10.2023 No. 77-3499/2023 (UID 77RS0013-02-2022-001091-78), Appeal ruling of the Kursk Regional Court dated 03/06/2025 No. 22-173/2025 (UID 46RS0031-01-2023-003373-06), Appeal ruling of the Primorsky Regional Court dated 11/01/2024 No. 22-5250/2024 (UID 25RS0002-01-2022-003774-73), The appellate ruling of the Supreme Court of the Chuvash Republic dated 06/14/2022 in case No. 22-1394/2022.

[17] Cassation ruling of the Fourth Cassation Court of General Jurisdiction dated 11/14/2024 in case No. 77-3010/2024 (UID 23RS0050-01-2020-002718-36), The appeal ruling of the Perm Regional Court dated 08.12.2023 in case No. 22- 7196/2023, the verdict of the Kirovsky District Court of Omsk dated 04.12.2019 in case No. 1-733/2019.

[18] Russian Federation. Judicial Board on Economic Disputes of the Supreme Court: ruling dated 04/21/2016 in case No. 302-ES14-1472, A33-1677/13. SPS "Garant" // [Electronic resource]. – URL: https://www.garant.ru/products/ipo/prime / doc/71287474/ (accessed: 05/13/2025).

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debtor's inability to fully satisfy creditors' claims for payment of mandatory payments" for the purposes of bringing a person to criminal responsibility under Article 196 of the Criminal Code of the Russian Federation, as well as "signs of bankruptcy" for the purposes of bringing a person to criminal responsibility under Article 195 of the Criminal Code of the Russian Federation as exceeding the total amount of the debtor's obligations over the actual amount. the value of its assets (objective bankruptcy). This point of view is occasionally confirmed in judicial practice.[19].

2.3. Differentiation of illegal actions in bankruptcy (Article 195 of the Criminal Code of the Russian Federation) and intentional bankruptcy (Article 196 of the Criminal Code of the Russian Federation)

In this regard, the question arises about the differentiation of the composition of unlawful actions in bankruptcy (art. 195 of the Criminal Code) and intentional bankruptcy (art. 196 of the Criminal Code). Judicial practice and the doctrine of criminal law have developed an approach that makes it possible to distinguish these compounds from each other.

Review of judicial practice

The courts propose to differentiate these compounds from each other both by the circumstances of the commission of the crime and by the purpose of the perpetrator's action. If illegal actions in bankruptcy (Article 195 of the Criminal Code of the Russian Federation) are committed in the presence of signs of bankruptcy, then intentional bankruptcy (Article 196 of the Criminal Code of the Russian Federation) is committed in their absence, but for the purpose of their occurrence. Thus, in one of the cases, the court stated that "one of the criteria for distinguishing illegal actions in bankruptcy and intentional bankruptcy is the period of relevant criminal activity. Accordingly, socially dangerous acts classified as intentional bankruptcy are committed before the start of such a procedure, while unlawful acts forming signs of a crime under art. 195 of the Criminal Code of the Russian Federation are committed already during this procedure."[20].

In another case, the court, in addition to the context in which these crimes were committed, pointed out the unlawful purpose of the perpetrator as a criterion for distinguishing them, namely, that "the crimes provided for in Paragraphs 1 and 2 of art. 195 of the Criminal Code are committed in an environment with signs of bankruptcy, which distinguishes them from deliberate bankruptcy, which in itself is aimed at creating such features"[21]. Similar conclusions are contained in other judicial acts[22].

Review of scientific literature

This point of view is also confirmed in the doctrine of criminal law. For example, Lopashenko A.N. notes that "there is only one real possibility to distinguish the elements of crimes specified in Part 1 of art. 195 and in art. 196 of the Criminal Code of the Russian Federation - according to the purpose of the

[19] Russian Federation. Zherdevsky District Court of the Tambov region: verdict of 03/23/2016 in the case № 1-2/2016(1-36/2015). THE FACT. Archive of court cases and decisions // [Electronic resource]. – URL: https://actofact.ru/case-68RS0007-1-2-2016-1-36-2015-2015-06-03-2-0/?ysclid=maqjmjy3m333043583 (accessed: 05/13/2025).

[20] Russian Federation. Rostov Regional Court: Appeal ruling No. 22- 5139/2024 dated 10/22/2024 (UID 61RS0034-01-2022-001473-15). Civil legislation // [Electronic resource]. – URL: https://lawnotes.ru/sudpraktika/sou / apellyatsionnoe-postanovlenie-_-22-295_2024-ot-02.01.2024-rostovskogo-oblastnogo-suda-(rostovskaya-oblast) (date of access: 05/13/2025).

[21] Russian Federation. Omsk City Court: Appeal ruling No. 22-1668/2024 dated 05/30/2024 (UID 55RS0001-02-2023-000330-71). Omsk City Court // [Electronic resource]. – URL: https://oblsud--oms.sudrf.ru/modules.php?name=sud_delo&srv_num=1&name_op=case&case_id=27520068&case_uid=b7a0e1d4-b745-4150-9f94-e201d4f77b11&delo_id=4&new= 4 (accessed: 05/13/2025).

[22] See, for example: The appeal ruling of the Rostov Regional Court dated 03.10.2022 in case No. 22-5968/2022, the Verdict of the Shchekinsky District Court of the Tula region dated 10.11.2020 No. 1-217/2020, the Verdict of the Kuibyshevsky District Court of Omsk dated 15.05.2019 in case No. 1-22/2019, the verdict of the Yustinsky District Court of the Republic of Kalmykia Dated 16.01.2018 In Case No. 1-1/2018, Verdict Of The Dubensky District Court Of The Republic Of Mordovia Dated 12.03.2012 In Case No. 1-1/2012.

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actions of the perpetrator. If a person commits actions (inaction) for the purpose of deliberate bankruptcy, Article 195 of the Criminal Code of the Russian Federation cannot be imputed. Conversely, in the absence of the purpose of deliberate bankruptcy, the actions of the perpetrator should be qualified under Part 1 of Article 195 of the Criminal Code of the Russian Federation" [4, p. 658]. Other authors have a similar point of view. [19, 20, 21, 22].

3. CONCLUSIONS

In this regard, it seems possible to formulate the following rules for interpreting the circumstances of the commission of crimes provided for in Articles 195, 196 of the Criminal Code of the Russian Federation and distinguishing these compounds from each other:

1. "Signs of bankruptcy" in Article 195 of the Criminal Code of the Russian Federation and "the debtor's inability to fully satisfy creditors' demands for payment of mandatory payments" in Article 196 of the Criminal Code of the Russian Federation should be understood as exceeding the total amount of the debtor's obligations over the real value of his assets (objective bankruptcy).

1. Unlike Paragraphs 1, 1.1, and 5 of Articles 195 of the Criminal Code of the Russian Federation, the acts provided for in Article 196 of the Criminal Code are committed in the absence of an environment indicating that the total amount of the debtor's obligations exceeds the actual value of his assets (objective bankruptcy), but for the purpose of its occurrence.

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