

Criminal Legal Measures to Counteract the Activities of Financial Pyramids in the Republic of Kazakhstan

Gulnara Kaiyrbekova¹

Abstract

The purpose of this study is to examine ways to counteract the activities of financial pyramids. To achieve this purpose, the study employs methods such as logical analysis, formal-legal analysis, dogmatic analysis, legal hermeneutics, deduction, induction. The study defines the concept of a “financial pyramid,” identifies its characteristics, signs, implementation principles, role, and influence on the socio-economic life of the state. Statistical data from the Republic of Kazakhstan were analysed, leading to the conclusion that the number of criminal activities in this category increases annually. Moreover, regions where these illegal activities are most prevalent were identified. In this regard, an analysis of Kazakhstan’s legislative framework was conducted, specifically the Criminal Code of 1997 and 2014, highlighting key problematic aspects and normative-legal conflicts. A comparative legal analysis was also conducted, comparing the experiences of countries such as the USA, Poland, Germany, among others.

Keywords: Crime; Criminal Organisations; International Experience; Investments; Investment Pyramid; Investment Pyramid Advertising.

Introduction

Financial pyramids represent one of the most common and dangerous forms of criminal behaviour in the field of financial investments. Their activities can have significant economic and social consequences as large sums of money from individuals and legal entities are unlawfully appropriated. As noted by M.M. Mogunova and O.V. Bogush (2021), an integral part of modern science involves the question of countering this category of crimes. According to A. Kipane et al. (2023), N.B. Amangeldy and A.K. Zhahmetova (2022), this is due to the fact that for many years, criminal law has faced a number of problems related to defining the characteristics of these types of crimes. It is pertinent to mention that the existing issues in combating the organisation and functioning of financial pyramids have not been fully resolved to date, making this study highly relevant.

¹Doctoral Student, Law Enforcement Academy under the Prosecutor General’s Office of the Republic of Kazakhstan, Kosshy, Republic of Kazakhstan. Kazakhstan. g_kaiyrbekova@outlook.com

One of the key topics for discussion is the question of the legal qualification of these actions by the legislator and law enforcement agencies. In addition, the methods for assessing the impact of these crimes on national security and identifying the factors causing such criminal activities require specific research. N.N. Turetsky (2022) states that it is important to develop effective approaches to counteracting financial pyramids and create a quality mechanism for their implementation. The researcher emphasises the special complexity due to the constant evolution of methods used in these crimes, driven by the development of digital technologies. It is worth noting that the types of crimes in this area are also constantly evolving, with new forms of “financial pyramids” emerging. This evolution is crucial to consider in determining the degree of responsibility and in developing preventive measures.

In contemporary legal science, various approaches have been developed to understand the concept of a “financial pyramid.” A.M. Alibekova (2019) mentions that despite numerous studies dedicated to combating financial pyramids, a detailed analysis of the legislative regulation of this concept and the characteristics of “financial pyramids” at a monographic level has not yet been conducted. It should be added to the author’s position that this is essential for the adequate qualification of this type of crime and the determination of appropriate penalties. In recent years, Kazakhstan has seen a clear increase in cases of fraud and an intensification of financial pyramid activities.

As noted by S.M. Rakhmetov (2022), some signs of financial pyramids include mass advertising in mass media and on the internet promising high profitability and passive income; selling property to clients at inflated prices or buying from clients at reduced prices; a mandatory requirement for joining – purchasing a product or service at a certain amount and attracting new participants. The main difference between financial pyramids and genuinely successful investment projects lies in the fundamental principles of their organisation. In financial pyramids, profits are primarily generated by attracting money from new participants.

Sh.R. Zhumagulova et al. (2022) mention that over the last 5 years in Kazakhstan, the number of cases of fraudulent activity related to financial pyramids has increased several times. All these cases are aimed at attracting money from the population through fraudulent schemes. In 2020, the number of crimes under Article 217 of the Criminal Code of the Republic of Kazakhstan, “Creation and Management of a Financial Pyramid,” increased by 7 times. The number of victims in criminal cases exceeded 25 thousand people, and the total damage amounted to more than 33.25 million tenge.

According to the statistics, citizens of Kazakhstan are increasingly becoming victims of fraudsters and financial pyramids. The increased number of fraud cases and the establishment of financial pyramids have a negative impact not only on those who fell victim to fraudulent schemes but also pose a threat to the country's overall economic development. This is reflected in business losses, reduced investments by citizens in local stocks and bonds, capital outflow from Kazakhstan, and a rise in social tension in society. Fraudsters exploit the trust of citizens and use their desire to increase their capital against them. The popularity of financial pyramids and the large number of victims seeking to multiply their capital through them are due to two main factors: the insufficient financial literacy of the population and the worsening economic conditions of citizens.

Thus, the purpose of the study is to explore ways to prevent and counteract this category of criminal activities. To achieve this, it is necessary to provide a characterisation of financial pyramids, highlight their features, conduct a comparative legal analysis of legislative acts, and examine international experience in this field.

Materials and Methods

In the course of the study, various types of analysis methods were used. The functional analysis method was employed to examine and understand the dynamics, structure, and impact of pyramid schemes on the economy and participants. It helped identify characteristic functions describing their interactions and dependencies, evaluate the stability of financial pyramids to changes in external factors, internal parameters, and participant behaviour, and identify the features and typical functions inherent in financial pyramids. The logical analysis method was implemented to uncover the concept of a "financial pyramid" and identify characteristic features and implementation principles. It was also valuable for investigating contradictions in proposals and statements used to attract participants in financial pyramids, exploring the structure and functioning of financial pyramids, and revealing the psychological mechanisms used to manipulate citizens and convince them of the "profitability" of participating in the pyramid. The statistical analysis method provided an opportunity to analyse data on the number of criminal acts related to the creation and management of financial pyramids in Kazakhstan, examine information in a regional context, and assess them.

The formal-legal method was used to consider financial pyramids from legal perspectives, identify elements of fraud and violations of financial legislation, and analyse existing legal instruments for the identification, prevention, and suppression of illegal activities. Thus, the following provisions

were considered: Criminal Code of the Republic of Kazakhstan (2014), Law of the Republic of Kazakhstan were studied No. 166-V “On the introduction of amendments and additions to certain legislative acts of the Republic of Kazakhstan on countering the activities of financial (investment) pyramid schemes” (2014), Law of the Republic of Kazakhstan No. 139-VII “On the introduction of amendments and additions to certain legislative acts of the Republic of Kazakhstan on countering the activities of financial (investment) pyramids” (2022), Criminal Code of the Republic of Kazakhstan (1997), Law of Poland No. 47 “On combating unfair competition” (1993), German Criminal Code (1998), Law of Canada No. C-34 “On the general regulation of trade and commerce in respect of conspiracies, trade practices and mergers affecting competition” (1985), U.S. Code: Title 18 (1926). The dogmatic method was used for the systematic analysis of texts of the specified legislative acts and their internal structure to reveal the meaning, significance, and consequences of these acts. It aimed at identifying key concepts, definitions, and terms used in these acts. The method of legal hermeneutics was implemented to determine the intentions and purposes, revealing the internal logic and consistency in the texts of the acts.

Results and Discussion

Analysis of the legislative framework of Kazakhstan

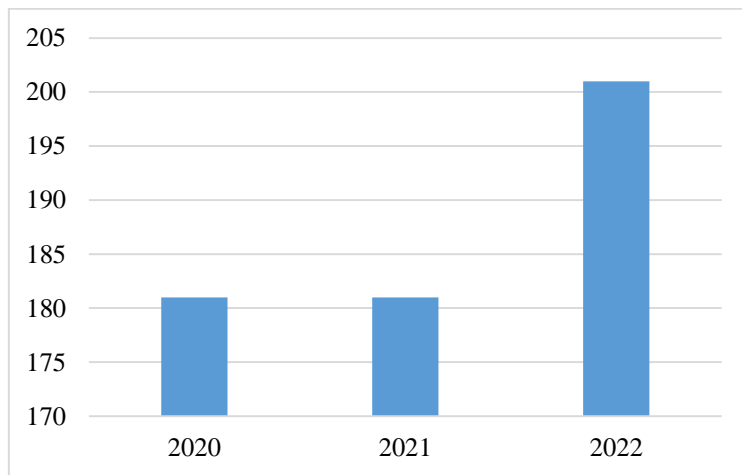
Financial pyramids are an integral part of the country’s financial sector, similar to any form of economic fraud that has acquired a global character and causes enormous losses, destroying people’s lives. Moreover, due to the development of information technologies, this problem of financial fraud has become even more serious, giving rise to new methods of deception.

It is worth noting that the insufficient qualification of law enforcement officers regarding the activities of financial (investment) pyramids at the legislative level raises numerous problems in Kazakhstan’s law enforcement practice. Existing misunderstandings in criminal legal norms regulating criminal relations related to Articles 217 and 217-1 of the Criminal Code (CC) of the Republic of Kazakhstan (2014), and criminological aspects of combating financial (investment) pyramids, lead to a situation where the organisers and leaders of such pyramids evade criminal liability, and the penalties imposed on the guilty are disproportionate. All this emphasises the need to improve the norms of Kazakhstan’s criminal legislation related to Article 217 CC.

In practice, law enforcement officers in the Republic of Kazakhstan encounter cases of the spread of activities of structures operating on the principle of financial pyramids. These organisations operate on a massive scale and cause damage both to the economy and to a vast number of people, leading to social

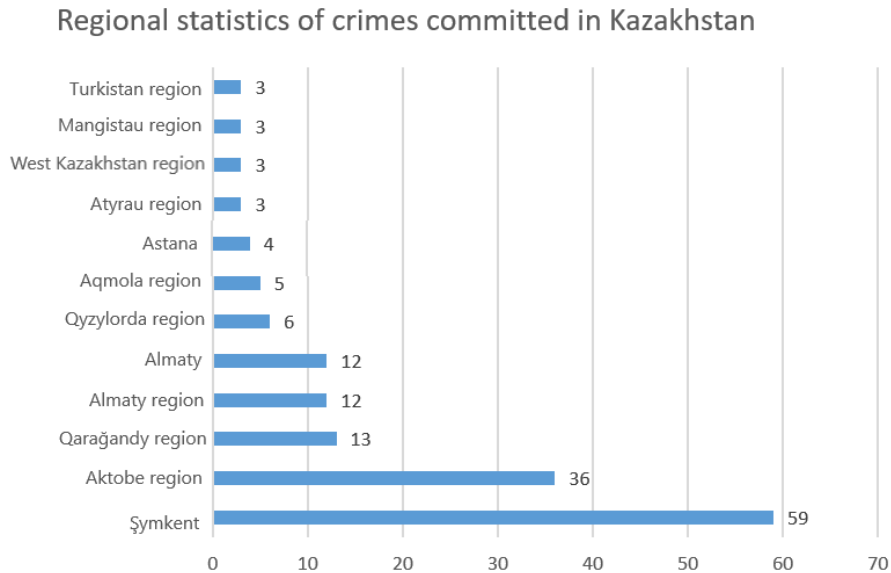
tension in the country and eroding the population's trust in state institutions. It is essential to examine the statistical data on the detection of crimes of this nature in more detail (Figure 1).

Figure 1: The number of cases of the creation and management of financial pyramids in 2020-2022



Source: Committee on Legal Statistics and Special Accounts of the General Prosecutor's Office of the Republic of Kazakhstan (2022).

As can be noted from the provided data, the number of crimes is increasing, necessitating the search for effective methods to prevent and counter these offences. It is also crucial to consider regional statistics on the number of documented cases (Figure 2).

Figure 2: Regional statistics of crimes committed in Kazakhstan

Source: Committee on Legal Statistics and Special Accounts of the General Prosecutor’s Office of the Republic of Kazakhstan (2022).

The data mentioned allow the conclusion that crimes related to the creation and management of financial pyramids in Kazakhstan are most common in the city of Shymkent and Aktobe region. It is worth mentioning that 124 cases were sent to court, of which 3 were sent to the court for investigation, investigation was suspended in 35 cases, including 10 during pre-trial investigation. As a result, 12 persons were brought to criminal responsibility, 11 of them were sentenced to imprisonment (Committee on Legal..., 2022). This also underscores the need for a detailed analysis of the current legislative framework and the improvement of methods to prevent and detect crimes of this category.

According to the criminal law of Kazakhstan, the initial responsibility for organising and/or managing the activities of a financial (investment) pyramid was introduced into the Criminal Code of the Republic of Kazakhstan through Article 177-1. These legislative changes were introduced by Law of the Republic of Kazakhstan No. 166-V “On the introduction of amendments and additions to certain legislative acts of the Republic of Kazakhstan on countering the activities of financial (investment) pyramid schemes” (2014). In the modern Criminal Code of the Republic of Kazakhstan (2014), Article 217 defines the creation of a financial (investment) pyramid as the organisation of activities aimed at deriving income (financial benefit) from attracting monetary funds or other assets, or rights

to them, from individuals and/or legal entities without using these funds in entrepreneurial activities. This is achieved through the redistribution of these assets and enriching some participants at the expense of the contributions of others, as well as managing the financial (investment) pyramid or its structural unit.

It should be noted that for the first time, the Law of the Republic of Kazakhstan No. 139-VII “On the introduction of amendments and additions to certain legislative acts of the Republic of Kazakhstan on countering the activities of financial (investment) pyramids” in 2022 introduced criminal liability for disseminating information publicly or using mass media or electronic information resources. This led to the involvement of individuals with significant damage in the pyramid. Thus, national legislation provides for criminal liability for both creating and/or managing the activities of a financial (investment) pyramid and for advertising a financial (investment) pyramid that results in involving individuals with significant damage. The definition of a financial pyramid was presented in the note to Article 177-1 of the Criminal Code of the Republic of Kazakhstan (1997). According to this note, a financial (investment) pyramid is understood as activities aimed at generating income (financial benefit) from attracting monetary funds or other assets and rights to them from individuals and/or legal entities. This activity is performed without using the funds attracted for entrepreneurial activities and ensures the fulfilment of obligations through the redistribution of these assets and enriching some participants at the expense of the contributions of others. It was also highlighted in the note to the previously applicable criminal law that a person who voluntarily acknowledged their participation in the financial (investment) pyramid and actively contributed to its disclosure or prevention is exempt from criminal liability if their actions do not constitute another crime. However, this provision does not apply to a person who initiated the creation of the financial (investment) pyramid. This note outlined the formal criteria for the offence.

It is essential to underline that the social danger of such actions lies in the violation of constitutional rights and freedoms of citizens, interests of legal entities, and the state, and in causing material and moral harm. This study establishes a simplified form of the crime in which the presence of material damage and the occurrence of other socially dangerous consequences are not obligatory. Liability for such a crime serves as a preventive measure aimed at countering the activities of a financial pyramid before it leads to a significant number of victims and financial losses. It is worth noting that in the current Criminal Code of the Republic of Kazakhstan (2014), this article is part of Chapter 8, “Criminal Offenses in the Field of Economic Activities,” where the object of

the crime includes not only property but also social relations in the economic sphere. From an objective perspective, the act in question is characterised by the following actions: creating a financial (investment) pyramid; directing the activities of the financial (investment) pyramid and its structural unit. The act is considered qualified if committed by: a group of persons by prior conspiracy; repeatedly; by a person using their official position; involving a large amount of money or other assets (Karibayeva et al., 2021).

According to Part 2 of Article 31 of the Criminal Code of the Republic of Kazakhstan, a criminal offence is considered to be committed by a group of persons by prior conspiracy if individuals who have previously agreed to commit the criminal offence participate in it. An offence is considered to be repeated if it has been committed two or more times, provided that the person was not convicted or acquitted for the previously committed criminal offence based on the grounds established by law in accordance with Part 2 of Article 12 of the Criminal Code of the Republic of Kazakhstan. Particular qualifying features under Part 3 of Article 217 of the Criminal Code of the Republic of Kazakhstan include acts committed: by a criminal group; involving a large amount of money or other property; by a person authorised to perform state functions or equivalent to such a person, or a public official, or a person holding a responsible public position, if such acts are associated with the use of their official position. In accordance with Article 3 of the Criminal Code of the Republic of Kazakhstan, a criminal group includes an organised group, a criminal organisation, a criminal community, a transnational organised group, a transnational criminal organisation, a transnational criminal community, a terrorist group, an extremist group, a gang, and an illegal armed formation. Creating and leading a financial (investment) pyramid involving a large and especially large amount of money or other assets are also qualified and especially qualified forms of the considered criminal offence. Involvement of a large amount of money or other property is understood as income exceeding one thousand monthly calculation indicators, and in especially large amount – income exceeding five thousand monthly calculation indicators.

As mentioned earlier, the essence of this crime also lies in the fact that individuals may direct the financial (investment) pyramid or its structural unit. The features of the activities of a financial (investment) pyramid are that its creators or leaders do not plan to use the funds attracted for entrepreneurial activities and thus do not fulfil their obligations. It is important to note that both in the note to Article 217 of the Criminal Code of the Republic of Kazakhstan and in the note to Article 177-1 of the Criminal Code of the Republic of Kazakhstan of 1997, there is a stimulating moment. If, in addition to the organiser of the financial

(investment) pyramid, someone voluntarily admits to aiding in its creation or management, or its structural unit, and also actively assists in its disclosure or prevention, this person is exempt from criminal liability if their actions do not constitute another crime. Active assistance in disclosing or preventing the crime implies proactive actions aimed at assisting the investigation in fully unravelling the circumstances of the crime, and identifying all participants, causes, and conditions of the crime (Shevchuk et al., 2022). This may include providing confessions indicating the guilt not only of the individual but also of other participants, providing physical and other evidence, providing information about the location of these pieces of evidence, assisting in the organisation and conduct of investigative measures, and so on. The activity of the guilty person can be confirmed by documents such as their statements, testimonies, interrogation protocols, and other documents related to investigative actions in which they participated.

It is worth noting that the legislation of Kazakhstan has provided necessary norms and conditions that can effectively help the victims of financial pyramids. Furthermore, it should be mentioned that financial (investment) pyramids exhibit several characteristic features: they attract money or other assets as well as rights to these assets, promise high and guaranteed profits, quick enrichment, and significant returns, involve individuals as participants, lack appropriate licenses, use financial instruments not provided by the law, employ aggressive advertising targeting specific audiences, engage in speculation with terms and authorities, and the funds attracted are not used in entrepreneurial activities that ensure the fulfilment of obligations, creating an illusion of scientific justification for the investment strategy and have a system of redistributing funds where some participants enrich themselves at the expense of contributions from others. Thus, the legislator has clearly and specifically defined this concept, including the features of various types of financial pyramids. However, for a complete understanding of the essence of this phenomenon, it is important to pay attention to more detailed characteristics of such pyramids, which allow distinguishing them from other types of activities.

The essence of crimes related to the creation and management of financial pyramids

As noted by S.A. Bosley et al. (2019), financial pyramids can be classified based on two criteria – the purpose of fund attraction and the level of economic activity. The assertion of these authors is agreeable, and it should be noted that the first group includes those that simulate the collection of funds for investment projects, operate under the guise of societies or mutual support clubs, while the

second group includes “pure” pyramids that are not engaged in any economic or financial activities except attracting funds and paying returns from the funds attracted, and disguised pyramids operating on the principle of network marketing. Thus, the economic essence of financial pyramids remains unchanged: the incomes of some investors are formed not due to real investments but due to cash inflows from other participants in the pyramid. W. Wang et al. (2021) note that the incomes received by the organisers and participants of the financial pyramid, including the first investors who invested money and managed to receive profits, are an intermediate result. In other words, all participants cannot expect positive results from such a “scheme”: at best, they can preserve their initial investments, but most often the pyramid structure is organised in such a way that initial contributors receive more than they invested, leaving the latter with nothing. Therefore, a financial pyramid represents a financial scheme where incomes from attracted funds are generated not from investing in profitable assets but from attracting new investors. It is built on the use of the most easily accessible and liquid instruments for mass audiences, such as shares, tickets, or goods. The distinctive feature of a pyramid from real business is the source of income. If the payments exceed the value added by real business, it can be confidently stated that it is a pyramid scheme.

One of the most well-known and widely spread investment schemes is Bernie Madoff’s Ponzi scheme, promising high profits with minimal risks (Hidajat et al., 2020). Its essence lies in new investors putting money into the project, and early investors receiving payments from the funds of new contributors. Thus, the scheme grows through the influx of new cash and is sustained by payments to previous participants. Examples of Ponzi schemes include the activities of the company “MMM,” which from 1990 to 1994, promising high investment returns, attracted vast sums of money from hundreds of thousands of people from former Soviet Union countries. However, in 1994, the company suddenly went bankrupt, and “MMM’s” activities were qualified as a fraudulent scheme (Ślusarek, 2022).

In recent years, a company called “Finiko” operated actively in Kazakhstan, promising extremely high returns on investments (Finiko recognized as..., 2021). Specifically, it promised profitability 43 times higher than interest from bank deposits. “Finiko” offered users the opportunity to purchase cryptocurrencies and other investment instruments on the Cyfron Capital OÜ platform, which, in turn, was a simulation modelling the purchase of real estate, cars, debt repayment, and investment. Thus, users invested their funds not in a real investment company but in a simulation (Sharyi et al., 2023).

In Kazakhstan, high-profile cases involving significant financial damage were investigated, related to the leaders of companies like “Garant 24 Lombard,” “Vygodny Zaim,” and “Estate Lombard”. They were accused of creating and managing financial pyramids, criminal activity, and fraud (Mogunova and Bogush, 2021). For example, “TOO Garant 24 Lombard” initially presented itself as a pawnshop that was supposed to provide loans or money against the pledge of property. In reality, it turned out to be a financial pyramid where payments were made from the funds of “old” participants. They convinced citizens of the benefits of investing funds, attracted cars and real estate at a price significantly higher than the market value, and declared that their profit was based on investing in cryptocurrency. A total of 17,268 individuals affected by the activities of these companies were identified, with the overall damage amounting to over 30.5 billion tenge. The materials of the criminal case comprise 3,700 volumes, 48 individuals appeared before the court, and an additional 8 suspects are still at large. According to the victims, for their investment in the pyramid scheme, they were promised returns of up to 40% of the invested amount monthly (Amangeldy and Zhahmetova, 2022).

From this, it can be concluded that the vulnerability of individuals to financial pyramids is partially explained by “information overload” – people find it easier to accept existing information as fact without delving into sources and conducting thorough research. The desire to increase one’s financial assets can be so strong that it suppresses logical reasoning and leads to naive behaviour.

Analysis of regulations of other states

In this case, analysing the legislation of other countries, where criminal law also establishes liability for “financial pyramids,” is quite important. For example, in Poland, the Law of Poland No. 47 “On combating unfair competition” (1993) is in effect. Article 17 of this law establishes that a pyramid scheme is associated with sales and involves offering to purchase goods or services with the promise of financial gain in exchange for persuading other individuals to join the system. According to Article 24, pyramid schemes are prohibited for both legal and natural persons. Creating or managing a pyramid scheme leads to imprisonment for a term of 6 months to 8 years. In Germany, the law prohibits recruiting participants into structures where incomes are generated from the contributions of other participants and stipulates imprisonment for up to two years or a fine. In addition, punishment is provided for attempting to create such a structure (German Criminal Code, 1998).

In Canada, the Law of Canada No. C-34 “On providing for the general regulation of trade and commerce in respect of conspiracies, trade practices and mergers affecting competition” (1985) was passed to counter financial pyramids. Participants in such activities not complying with the requirements of this law can be charged with fraud and may be fined up to 200,000 Canadian dollars or imprisoned for one year. If there are signs of a financial pyramid, the term of imprisonment can be extended to five years. In the United States, a system of participant insurance is employed to combat financial pyramids. This means creating compensation funds in investment companies, on stock markets and exchanges, to protect participants from losses in their investments in case of the company’s bankruptcy. The same approach is used when creating insurance funds (U.S. Code: Title 18, 1926).

Thus, in foreign legislation, the key element of financial pyramids is causing damage through deception. When determining the qualification of the crime, it is important to establish whether fraud or abuse of trust was committed to commit embezzlement. As noted by S.J. Greenman et al. (2023), causing damage is usually associated with attempting to mislead participants regarding the true nature of the financial pyramid organisation. For instance, participants might be deceived about the source of income or be convinced of high profits from a fictional exclusive business. If there is no deception and participants are clearly informed of the risks of investment loss, the creators of such activities can be held accountable for creating a financial pyramid if the law prescribes the corresponding punishment.

Recommendations on countering and preventing this category of criminal acts

The implementation of comprehensive measures to educate children and youth about financial literacy at all levels of education, starting from school and extending to extracurricular programs, is crucial. Key areas of education can include financial planning, budgeting, personal savings, credit, investments, insurance, risks, financial security, consumer rights protection and general economic knowledge. Such measures will help protect the population from financial pyramids and, in the long term, reduce the credit burden on the population, contributing to the overall prosperity of citizens. Y. Shi et al. (2019) state that financial literacy education is an integral part of the educational process in schools in the USA and Europe, where children are taught basic principles of financial planning and money management from an early age. In Sweden, mandatory lessons on financial literacy for students are conducted regularly, involving specialists and parents. Targeted work with the most vulnerable

segments of the population, such as pensioners, large families, low-income families, disabled individuals, including individual discussions and consultations, and public receptions involving representatives of associations and organisations, is essential (Buribayev et al., 2016). A similar approach is successfully used in Germany, where the Federal Financial Supervisory Authority conducts regular calls to citizens and holds special discussions to familiarise them with the basics of financial literacy (German Criminal Code, 1998).

There is a need for stricter legislative requirements regarding the transparency of financial services and products, including mandatory client information about financial products through digital channels. Measures should also be taken to control the quality of the provided information and monitor methods used by clients to confirm their familiarity with the provided information. These provisions can be included in the Law on State Regulation, Control, and Supervision of the Financial Market and Financial Organisations of the Republic of Kazakhstan. The authorised body under this law is the Agency of the Republic of Kazakhstan for Regulation and Development of the Financial Market. To reduce the number of victims of fraudsters and financial pyramids, the authors consider it important to ensure the accessibility of tools for verifying counterparties and identifying licensed organisations in the financial market for citizens. In other words, every citizen should have the opportunity to verify the authenticity of a company, its legal address, involvement in legal proceedings, and date of establishment directly from their computer or smartphone.

Comprehensive measures are necessary for the socialisation and support of rural youth moving to cities, and for the underprivileged population. For example, B. Xue et al. (2021) write that this could include assistance in employment and providing preferential loans to start their own businesses. For citizens from low-income strata of the population, it is advisable to organise courses to enhance professional skills for employment, work in production, and starting their own businesses, and to provide allowances for attending such courses. To address housing issues, appropriate changes can be made at the legislative level, for example, introducing the practice of establishing a minimum amount of commercial housing in new construction projects on a broader scale than it is done currently. For instance, as in Germany, an investor can receive subsidies for housing construction if they are willing to rent residential spaces to specific population groups in accordance with state housing policies and at prices set by the authorities (Fu et al., 2022).

The level of danger of this crime, for which criminal liability is provided under Article 217 of the Criminal Code, is related to the number of victims and the scale of damage caused by this crime. According to the note to Article 217 of the

Criminal Code, besides the organiser of a financial (investment) pyramid who voluntarily reported their involvement in creating such a pyramid, their leadership, or structural subdivision, and actively assisted in its disclosure or cessation, they are exempt from criminal liability if their actions do not fall under the elements of any other crime. It should be noted that there is no similar note in the legislation of other countries. In case a financial fraudster is exempt from criminal liability, the damage inflicted on the victims remains uncompensated. A financial fraudster can escape by leaving the territory of the country. The note to Article 217 of the Criminal Code does not specify the necessity of compensating the victims' damage as a condition for exemption from criminal liability. The presence of such a note, which allows avoiding punishment for such a serious crime, can cause public dissatisfaction, especially considering that the number of victims of financial pyramids is increasing every year. This is confirmed by the statistical data presented above. Thus, the presence of the specified note in this article plays a negative role, and it should be excluded. In addition, it is worth noting that the formulation of Article 217 of the Criminal Code should be regulated. In this regard, the following version of the first point of the first part of Article 217 of the Criminal Code is proposed: "1. A financial (investment) pyramid is an organisation that engages in activities with the aim of making a profit (material gain) by attracting financial resources, property, or rights to it from individuals and/or legal entities and manages the financial (investment) pyramid or its structural subdivision."

Advertisement plays a significant role in the functioning of financial pyramids, with its content often not corresponding to reality. It contributes to the mass recruitment of victims into the pyramid. In the Criminal Code of the Republic of Kazakhstan of 1997, criminal liability for blatantly false advertising was considered. However, when the current Criminal Code was adopted, this article was excluded from it. With the law dated July 12, 2022, "On introducing amendments and additions to certain legislative acts of the Republic of Kazakhstan on issues of countering the activities of financial (investment) pyramids," Article 217-1 was added, providing for criminal liability for the advertising of financial (investment) pyramids. In summary, it should be emphasised once again that the problem of the increasing cases of financial pyramid formation has many aspects, rooted in the low financial literacy of the population and the deterioration of their well-being. Therefore, solving the issues of educating citizens about the basics of financial literacy, improving the statistical base, and integrating low-income citizens into society to address these problems at the state and legislative levels is of significant importance. Only under these

conditions can the sources of this problem, which contribute to the population's mistrust of fraudsters, be eliminated.

Statistical data confirm the relevance of the task of countering financial pyramids, as these phenomena currently pose a real threat to the state. This is noted by the active efforts of government bodies aimed at improving legislation in this area. For example, on the initiative of parliamentarians, bills have been developed to enhance state regulation, control, and supervision over the financial market and financial organisations and counter the activities of financial pyramids (Alibekova, 2019). These legislative changes are aimed at improving legislation and strengthening control over such organisations, including tightening responsibility for the advertising of financial pyramids, increasing punishment for their organisation, and attracting the funds of depositors. These innovations in legislation contribute to a more effective counteraction to financial pyramids and fraud, protect citizens' financial assets, and prevent illegal actions aimed at unlawful enrichment. It is important to mention that only the systematic and consistent implementation of all the aforementioned measures, namely, improving legislation, increasing financial literacy among the population, and raising their overall well-being, will provide the opportunity to reduce the number of citizens falling victim to financial pyramids, prevent the occurrence of such criminal activities, and ensure the stability of the state's economic system.

Conclusions

This study was conducted with the aim of analysing the activities of financial pyramids in the Republic of Kazakhstan. During the study, the concept of "financial pyramids" was thoroughly examined, and their inherent features, principles of operation, and other characteristics were identified. Equally important was the examination of statistical data, which led to the conclusion that the number of crimes in this category has increased, necessitating the implementation of more effective methods to counter and prevent these unlawful activities. Therefore, a comparative legal analysis of the legislative frameworks of the Republic of Kazakhstan and several other countries, namely Poland, Germany, and the USA, was conducted, as these countries exhibit a high level of counteraction against financial pyramid activities. Deficiencies and inconsistencies in the legislative regulation related to liability for actions associated with financial (investment) pyramids were discovered. With the aim of addressing these issues and considering the norms of criminal law and legislation in some other countries, amendments to Article 217 of the Criminal Code of the Republic of Kazakhstan were proposed.

It was highlighted that it is necessary to establish in legislation that the organiser of a pyramid scheme should not automatically qualify their income derivation as illegal organisation activities. This principle is already applied in other countries. It was noted that this is because organisers of financial pyramids can evade criminal liability by using only a small portion of the funds raised for entrepreneurial activities to fulfil their obligations. Based on this, a criterion for the absence of the use of raised funds for entrepreneurial activities to a degree sufficient to fulfil obligations was proposed as an indicator of a financial pyramid. It was discussed that other countries impose stricter forms of punishment; for example, in Germany, life imprisonment is stipulated for organisers of investment pyramids, and in the USA, organisers of financial pyramids face asset confiscation, including property registered under relatives and other individuals. A significant aspect in countering the spread of criminal activities related to the creation and management of financial pyramids is the elevation of the population's information and digital literacy. It was noted that government authorities should conduct specialised meetings to inform citizens, and official information should be placed on relevant resources. Another existing problem is the low living standards of the population. Increasing this indicator will prevent the risk of such crimes and minimise the number of victims.

Based on the results of the study, the following recommendations are suggested: establish in legislation the criterion of non-use of raised funds for entrepreneurial activities to a degree sufficient to fulfil obligations as an indicator of a financial pyramid; tighten criminal legal measures of responsibility in the specified group of crimes; introduce new forms of punishment; enhance the population's information literacy through specialised meetings conducted by authorised persons, and make extensive information about crimes openly accessible on official websites of relevant authorities. Therefore, the proposed legislative changes will enable a more effective resistance to the creation, management, and advertising of financial (investment) pyramids. It is also essential to note that the nature of criminal activities in this field constantly evolves due to digitalisation processes, leading to the emergence of new types of "financial pyramids". It is crucial to consider their specific features when determining qualifications and developing effective prevention measures. Implementing comprehensive measures to improve legislation, enhance the population's information literacy, and their living standards will provide the opportunity to effectively counter criminal activities. Subsequent studies will focus on the ways to combat financial crimes in the digital environment.

References

- Alibekova, A.M. (2019). Some questions of qualification of creation and management of (investment) pyramid. *Bulletin of the Law Enforcement Academy under the General Prosecutor's Office of the Republic of Kazakhstan*, 2, 44-50.
- Amangeldy, N.B. & Zhahmetova, A.K. (2022). Pyramid schemes in the digital economy. In: *Topical Issues of Economic Theory: Development and Application in Practice of Socio-Economic Transformations* (pp. 19-22). Ufa: Ufa State Aviation Technical University.
- Bosley, S.A., Bellemare, M.F., Umwali, L. & York, J. (2019). Decision-making and vulnerability in a pyramid scheme fraud. *Journal of Behavioral and Experimental Economics*, 80. <https://doi.org/10.1016/j.socec.2019.02.011>
- Buribayev, Y.A., Mukaldyeva, G., Nurahmetova, G.G., Uteyev, B., Nessipbekov, Y. & Khamzina, Z.A. (2016). Pension reform in the republic of Kazakhstan: Main directions, conditions for implementation and development prospects. *International Journal of Environmental and Science Education*, 11(18), 11611-11619.
- Committee on Legal Statistics and Special Accounts of the General Prosecutor's Office of the Republic of Kazakhstan. (2022). <https://qamqor.gov.kz/crimestat/indicators/criminal>
- Criminal Code of the Republic of Kazakhstan. (1997). https://adilet.zan.kz/rus/docs/K970000167_
- Criminal Code of the Republic of Kazakhstan. (2014). https://online.zakon.kz/Document/?doc_id=31575252
- Finiko recognized as a financial pyramid in Kazakhstan. (2021). https://tengrinews.kz/kazakhstan_news/finiko-priznali-finansovoy-piramidoy-v-kazahstane-442455/
- Fu, Z., Gu, W., Fang, Z., Yan, J. & Liu, X.F. (2022). Pyramid scheme prevails in ICO: Evidence from primary market token transaction analyses. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4225546
- German Criminal Code. (1998). https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html
- Greenman, S.J., Snyder, S., Bosley, S. & Chenoweth, D. (2023). County trajectories of pyramid scheme victimization. *Crime, Law and Social Change*, 79, 291-317.
- Hidajat, T., Primiana, I., Rahman, S. & Febrian, E. (2020). Why are people trapped in Ponzi and pyramid schemes? *Journal of Financial Crime*, 28(1), 187-203.
- Karibayeva, A.K., Nurgaliyeva, Y.N., Saktaganova, I.S., Yessirkepova, M.M., Kydyrov, Z.S., Bizhan, N.R. & Zayed, N.M. (2021). Civil liability for corruption offenses in the Kazakhstan Republic. *Journal of Legal, Ethical and Regulatory Issues*, 24(5), 1-7.
- Kipane, A., Vilks, A. & Krivinch, A. (2023). Forecasts of long-term progress in the socio-cultural sphere in the context of combating economic crime. *Pakistan Journal of Criminology*, 15(4), 49-67.
- Law of Canada No. C-34 "On provide for the general regulation of trade and commerce in respect of conspiracies, trade practices and mergers affecting competition". (1985). <https://laws-lois.justice.gc.ca/eng/acts/c-34/fulltext.html>
- Law of Poland No. 47 "On combating unfair competition". (1993). <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19930470211/U/D19930211Lj.pdf>

- Law of the Republic of Kazakhstan No. 139-VII “On the introduction of amendments and additions to certain legislative acts of the Republic of Kazakhstan on countering the activities of financial (investment) pyramids”. (2022). https://online.zakon.kz/Document/?doc_id=33084755
- Law of the Republic of Kazakhstan No. 166-V “On the introduction of amendments and additions to certain legislative acts of the Republic of Kazakhstan on countering the activities of financial (investment) pyramid schemes”. (2014). https://online.zakon.kz/Document/?doc_id=31497256
- Mogunova, M.M. & Bogush, O.V. (2021). Financial pyramids in modern Kazakhstan. In: *Evolution of State and Law: Problems and Prospects* (pp. 233-236). Kursk: South-West State University.
- Rakhmetov, S.M. (2022). Monitoring of the practice of applying certain norms of the criminal code on liability for criminal offenses in the field of economic activity. *Bulletin of the Institute of Legislation and Legal Information of the Republic of Kazakhstan*, 4(71), 124-134.
- Sharyi, V., Supriaha, O. & Kalinichenko, B. (2023). Resolution of investment conflicts between the state and foreign companies in the context of crisis prevention. *Social and Legal Studios*, 6(4), 200-207.
- Shevchuk, V., Vapniarchuk, V., Borysenko, I., Zatenatskyi, D. & Semenogov, V. (2022). Criminalistic methodics of crime investigation: Current problems and promising research areas. *Revista Juridica Portucalense*, 32, 320-341.
- Shi, Y., Li, B. & Long, W. (2019). Pyramid scheme model for consumption rebate frauds. *Chinese Physics B*, 28, 078901.
- Ślusarek, N. (2022). The fraudulent phenomenon of the financial pyramids in the financial industry. *Finanse i Prawo Finansowe*, 2, 87-107.
- Turetsky, N.N. (2022). Factors influencing the growing number of victims of fraud and pyramid schemes and methods to counter them. *Bulletin of the L.N. Gumilyov Eurasian National University. Series: Law*, 3(140), 89-97.
- U.S. Code: Title 18. (1926). <https://www.law.cornell.edu/uscode/text/18>
- Wang, W., Tian, J., Lv, F., Xin, G., Ma, Y. & Wang, B. (2021). Mining frequent pyramid patterns from time series transaction data with custom constraints. *Computers & Security*, 100, 102088.
- Xue, B., Li, T., Cheng, X., Zhang, S. & Shi, G. (2021). Spreading dynamics of SHIPR pyramid scheme model on scale-free networks. *IEEE Access*, 9, 132064-132077.
- Zhumagulova, Sh.R., Asyl-Aiym, A. & Nurai, A. (2022). Economic crime as a global problem. In: *Innovative Trends of Science and Practice, Tasks and Ways to Solve Them* (pp. 238-244). Athens: ISG.