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The issue of the criminal activity directed against economic operators in the restaurant industry. Real criminal offence threats, compiled on the basis of the results of the survey conducted in Warsaw restaurants

Summary

The purpose of this article is to present a comprehensive review of criminal threats to the restaurant owners. The article presents a research methodology and the results of a research study conducted by the author on three groups of respondents: the restaurant owners, managers and employees. Indicated are the most serious criminal threats, both external and internal. Presented data reveal amounts of losses generated by the perpetrators and the frequency of their criminal activities. The differences in the perception of crime against restaurant owners by different groups of respondents are discussed. A separate section of the article is devoted to prosecution of the perpetrators and preventive methods and measures applied by entrepreneurs. The key value of the present article lies in the methodology applied by the author, i.e., qualitative research in the form of in-depth interviews with the owners and staff of 18 restaurants in Warsaw.

Keywords crime, economic activity, restaurants, criminalistics, prevention, studies, employees, personnel, offences

Introduction – victimisation of business entities

Rapid development of commercial activities and creation of new, mostly small business enterprises are, paradoxically, the results of the economic crisis. Former employees, after losing their full-time jobs, often decide to open their own businesses. Lacking prior professional experiences, they tend to invest into retail trade or retail services.

There is a widespread view that such endeavor – operating a retail store or a restaurant – does not require any specific skills or competences. Hence, this economic sector is characterized by the appearance of entrepreneurs, who gain business experience by starting up their own activities. The economic risks, market failures and marketing related issues are not the only challenges that they have to face. Among factors reducing the profitability of companies are the criminal threats.

Victimization of business entities is a natural consequence of generating a turnover and profit. The criminals are able to rationally assess their potential sources of profits. Market economy always leads to increased wealth inequalities in the society. The

business owners belong to the group, which is usually perceived by the criminals as attractive, if only owing to the visible attributes of wealth [1]. Restaurants and retail stores, as open to the public and devoid of any access control or access restrictions, are particularly vulnerable to criminal activities.

The roles of criminalistics are important in this context, particularly its preventive dimension. The above statement reflects the views of all scholars specializing in criminalistics. For example, W. Gutekunst considers criminalistics as: “knowledge of tactics and techniques of committing the crime; tactics and techniques of crime investigation and tactics and techniques of crime prevention [2]”. The preventive role of criminalistics is similarly perceived by J. Widacki: “The aim of criminalistics is (...) to prevent [reduce – translator’s note] effectiveness of criminal activities” [3]. An important role of criminalistics as a preventive measure is also indicated by T. Hanausek [4]. Evaluation of the prevention effectiveness is hampered, due to a certain paradox. Namely, in the case of crimes committed, the effectiveness can be assessed for example, by measuring the detection rate. However, the effectiveness of the prevention is much more difficult to assess, since a successful

prevention translates into no criminal offence being committed, whatsoever.

A level of success of the business owner can be measured by amount of profit generated by his economic activity. However, the economic factors are not the only ones determining the profit, which can be frequently reduced or even entirely wiped out, due to criminal activity. When dealing with criminal threats to economic activity, a key element is their proper recognition, getting to know the perpetrator's *modus operandi*, and, consequently, developing and applying methods for reducing the risks and deterring potential offenders. Another important aspect is, in author's opinion, a support offered to the business owners by forensic experts. The lower profits translate into the loss of tax revenue payable to the State Treasury. The preventive role of criminalistics is thereby confirming its significance.

The source of criminal threats can be both external and internal, the latter originating from business employees. The categorization of criminal threats into internal and external has been also adopted by the insurance industry, wherein the agents and counterparties are perceived as potential criminal insiders, while the customers, policy holders and beneficiaries of insurance contracts as criminal outsiders. Such classification is a sound measure in terms of working up the methods of prevention of criminal offences. If one succeeds in determining which group generates greater threats and potential losses, it is possible, by analyzing *modus operandi*, to focus on the preventive measures, which counteract the criminal activities and mitigate their impact.

The aim of the present study was to familiarize the readers with the issue of criminal threats to business owners. An exemplary business sector used in the study was the restaurant industry, due to the fact that the specificity of services and the retail nature of this sector render it particularly vulnerable to threats of criminal offences.

Objectives and methodology

The first part of the study was conducted in 2006 on a research group of 6 restaurant owners being the managers of 10 premises situated in Warsaw. The test method consisted of an individual in-depth interview [5]. The aim of the interview was to identify and collate factual incidents of criminal activity, experienced by entrepreneurs during the last 3 years of running their businesses. Another goal was to gain insight into the methods used by the offenders and to make an attempt to categorize the offenders into groups, according to the severity of hardship that they had caused for business owners.

The second part of the study was conducted between 2009-2010 and it focused on major aspects of the criminal activity faced by business owners on a daily basis, which have been indicated by previous studies. The test method consisted of an individual in-depth, 3-8 hour interview. The interview involved 3 groups of respondents: (i) restaurant owners (6 persons); (ii) restaurant managers (7 persons) (in total, both owners and managers managed 18 restaurants); (iii) regular employees and persons recruited on a basis of other legal and formal relations (6 persons – cooks/chefs, waiters, bartenders). The anonymity of the respondents participating in the study was safeguarded. The majority of respondents (14 persons) have given their consent to audio recording of the interviews.

During this phase of research, it was essential to balance out the perceptions of criminal threats by restaurant employees at different positions within businesses, in order to ensure objectivity of formulated conclusions. It may be assumed that business owners will show tendency to overestimate the threats, while the common employees will overlook them. At the same time, the managers, whose task is to efficiently manage the restaurant, could, during the interviews, subconsciously overestimate their own efficacy. Thus, the collation of opinions expressed by three groups of respondents, facilitated a more reliable evaluation of the phenomenon of criminal victimization of the restaurant industry.

The restaurant industry is relatively well defined in the Statistical Classification of Economic Activities in the European Community document, under position number 56.10A. This activity involves the preparation of meals and serving them to the guests who seat at the tables or choose freely from the menu on display, regardless of whether the meals are consumed on-site, prepared as takeaway or delivered to the customers [6]. The study involved exclusively the so called: "open gastronomy", i.e., open-access premises, as opposed to "non-public gastronomy", embracing premises in the office buildings, at workplaces or in hospitals.

In order to systematize the results, the following entities, whose welfare can be threatened by criminal activities, have been singled out: owner/restaurateur; manager/supervisor; employee/a person recruited on the basis of other legal and formal relations; customer.

Results of the 2006 study

The interviewed respondents pointed at the thefts as a prevailing threat, typical of both insiders and outsiders. The thefts, involving the restaurant personnel and outside persons occurred in all 10

premises, subject to the study. In nine of the premises, the perpetrators made payments with counterfeit banknotes or fake/doctored credit cards. One of the cases reported by the respondents, involved the restaurant guests who offered to make a cash payment in euro currency, despite the fact that this particular restaurant did not accept payments in euro. However, at the absence of the restaurateur, the waiter accepted a high-denomination euro banknote and gave change in Polish zlotys, most likely applying the currency exchange rate favorable to him. After the end of his shift, the waiter attempted to exchange the banknote in exchange office at a nearby shopping center, where it was identified as counterfeit. However, the exchange office employee did neither confiscate the banknote, nor notify the police but instead, returned the banknote to the waiter. In this way, the perpetrators not only put counterfeit banknote into circulation (by paying for the meal), but also exchanged it to Polish zlotys (by receiving change in this currency).

Seven of the interviewed premises have been burglarized. In three premises, the restaurateurs spotted the ongoing drug trafficking, while attempts on the lives of the restaurateurs took place in two restaurants. In the latter two cases, the restaurateurs suspected former employees, however, the actual perpetrators remained unidentified. According to the owners, in all premises the employees produced false medical certificates in order to obtain sick leave. The owners of three restaurants have been blackmailed by the personnel. Most of the owners feared a presence of the members of criminal organizations as guests in their premises. In their opinion, noisy behavior of the criminals deterred other customers from visiting a particular restaurant. However, in neither of the premises have the members of the criminal organizations shown any aggression towards the personnel or other customers. Additionally, the owners have not experienced racketeering in their restaurants

All respondents within this round of survey indicated that the greatest problem for them were the crimes committed by personnel. The insiders were the cause of the biggest losses.

Results of the 2009–2010 study

As stated above, this phase of research involved interviewing three groups of respondents: owners, managers and employees. The respondents of all three groups confirmed that there had been crimes committed in the premises. In most instances, the victims were the owners, far less frequently the customers and only occasionally the employees.

Outsider crimes

The outsiders were in most cases the pickpockets, burglars or swindlers who solicited/extorted free meals. According to the respondents, making payments with counterfeit banknotes was particularly common. In a few restaurants, the owners came across the pickpockets. It is very likely that the reports concerned the same group of individuals. The most common theme involved a group of 3-4 people, referred to as "Arabs", whose *modus operandi* was the following: a couple entered the restaurant and took seats at the table situated remotely from the entrance. After a while, another, limping man, who had visible mobility problem entered the premises. While walking towards the table taken by his accomplices, the man kept limping, stumbling, leaning on tables, chairs and stealing the wallets. On some occasions, the man was assisted by another accomplice who helped him to get around. According to an alternative version of events, all group members sat down at the table, while the "lame" circled around the restaurant, making his rounds to the restroom or to find the waiter, while limping and picking up wallets. The rest of the group at the table observed the guests and robbed those who walked away from their tables and left their personal belongings.

Another method applied by the pickpockets consisted in hanging their garments on a common hanger upon entry. After the perpetrators sat down at the table, they pondered very long over the menu without making orders, in order to be able to leave the restaurant. In this case, placing an order would have meant wasting time for payment arrangements and thus, it would have impeded the perpetrator when it was necessary to quickly leave the premises. The pickpockets would observe other guests leaving their garments on the same hanger and after they decided that a valuable booty had been left in someone's pocket, they would approach the hanger, pretending to have searched for their belongings, while at the same time they would commit theft.

The test subjects of the employee group indicated the following outsider criminal activities: petty thefts, eat-and-run incidents (fleeing the restaurant without paying for a meal – a few respondents informed about such incidents), pickpocketing, brawls under the influence of alcohol, making payments with counterfeit banknotes. Interestingly, the restaurant customers have been observed to have carried away small accessories and elements of equipment from the restaurants, such as: cutlery, candles, salt shakers. The restrooms have been emptied of air fresheners, toilet paper or small elements of interior design. Although, the eat-and-run incidents were commonly

restaurateurs' nightmare, the respondents have also indicated another, more elaborate way of swindling the restaurants out of paying for meals. There were instances of customers using the "hair" scam. Usually, a couple ordered large number of dishes. After they have eaten approximately three quarters of their meal, they would demand to see a manager, whom they would present with a single hair, allegedly found on one of the plates. The couple's noisy behavior scared away other guests. Finally, the perpetrators declared that they would not pay for their meal. The manager, anxious to avoid the discouragement among other customers, usually agreed to the meal free of charge and frequently, served complimentary desserts. The above scam has been described on several occasions by different groups of respondents. In general, the perpetrators willing to avoid payments used a whole variety of methods, among which, the aforementioned scam stood out as relatively creative. There were customers who simply fled from the restaurant, taking advantage of a commotion in the restaurant room, while others, pretending that they were in the middle of the meal, would inform the waiter that they were going to the restroom. The waiters, especially when dealing with small orders, have not paid particular attention to the customers, which has been taken advantage of by the latter. Finally, a group of customers openly admitted after consuming their meal that they had no money and therefore, would not have paid for the ordered goods.

According to the respondents, the burglaries have not caused substantial losses in goods or cash. Much bigger, cost-generating damage has been related to forcing a door by the perpetrators. The repair costs have been usually reimbursed by the insurer. The thefts involved small items or cash. Most frequently, the perpetrators were content with cash boxes containing small amounts of coins or banknotes used by the waiters for giving back change.

The respondents also reported the incidents of burglarizing vehicles belonging to the restaurants' guests. Typically, when the ill practice became intense, the restaurant owners would react by installing the visual monitoring system covering the parking lot. Such a remedy has not always deterred the offenders. One of the respondents described a situation where a restaurant security employee (representing an external security company) turned off or froze the monitoring system for the duration of the customers' vehicles being burglarized.

Criminal offences committed by insiders

The main criminal offences committed by insiders include: stealing food products, failing to register sales

through fiscal cash registers (fraud), stealing cash from cash registers. In an interesting collation, different types of criminal offences have been linked with particular employee positions in a restaurant. The waiters most frequently engaged in unregistered sales and in stealing cash from cash registers. The cooks stole food products, collaborated with the waiters in making non-fiscalized sales, concealed product shortages by forging the loss reports. The bartenders sold their own or "surplus" alcohol (obtained by underfilling drinks served to customers) and extorted tips by demonstrating sluggishness in giving back change.

According to all respondents, criminal offences were only rarely committed by the managers and, if so, then this was usually done in cooperation with other employees. Managerial criminal activities usually resulted in very high losses to the restaurateurs. Among the offences committed single-handedly by the managers was an acceptance of provisions from product suppliers in exchange for a contract with a particular supplier. The managers who engaged in such trade-offs have not followed the employer's interest in selecting the most cost-effective suppliers.

In general, the perpetrators acted single-handedly, only rarely in concert. However, they were usually well aware of each other's criminal acts. Even the employees who did not engage in such activities have not informed the owners about the illegal acts committed by their coworkers. The criminal acts were committed multiple times a day. The lowest numbers given by the respondents were between 2-5 acts a day. The amount of damage per single act was, according to the respondents: 10-30 zł (Polish zlotys) in the case of restaurateurs; 15-60 zł in the case of managers and 3-100 zł in the case of employees. An extra income from criminal activity generated by the employee offenders was at least 100% of their official salary. The respondents of the employee group indicated the highest amounts. According to the respondents, the overall losses generated by the personnel amounted to 5-10% of the turnover, which in absolute terms translated to 50 000 – 100 000 zł per year. The above are the mean amounts calculated, based on the replies of all three groups of the respondents. It is worth to note that the employees themselves estimated the incomes from their criminal activities as being higher than in the judgment of managers and restaurateurs. The employees' opinion on this matter was deemed most reliable. Another estimation made by the employees was that approx. 22% of the personnel were absolutely dishonest individuals, permanently engaged in criminal activities, while 50% were ready to commit an offence as soon as they realized that the perpetrators remained unpunished.

Prosecution of offenders

In general, instances of outsider criminal activity have been reported to law enforcement authorities. In particular, the reports have been filed when the victims were the customers. The managers notified the authorities of the eat-and-run incidents, thefts of customers' property, burglaries of customers' vehicles. The restaurateurs in turn, applied the "type of victim" criterion, i.e., when the victims were the customers, they would notify the authorities, and fail to do so when the crime affected their own goods. One exception to that general rule were the burglaries, in which case the insurance companies are responsible for compensation of losses and damages.

An entirely different picture emerges in the case of insider criminal activity. Literally, none of the offences committed by employees have been reported to the authorities by restaurateurs and managers. According to the latter two groups, such attempts had been made in the past, although the police officers' attitude had been generally to discourage them from giving evidence. Moreover, the officers did not comprehend the nature and mechanisms of insider criminal activity. Notwithstanding the real reasons, the respondents of all three groups agreed that the complaints of an offence have not been made in the case of insider criminal activity.

Prevention

In practice, no preventive measures have been applied by entrepreneurs. The candidates have not been subjected to pre-employment background screening (e.g., by contacting their previous employers), nor the employees held responsible when caught in the act of committing an offence. Managers only rarely analyzed the recordings from the visual monitoring systems, which were commonly installed in all restaurants. The only hardship and a consequence for the insiders was losing their job, albeit usually by mutual agreement of the parties. When caught in the act by restaurateur or manager, the insiders would explain their criminal activity as a mistake.

Summary

According to all groups of respondents, the outsiders pose a smaller criminal threat to restaurateurs and their businesses than the insiders. Among the outsiders are predominantly the pickpockets, burglars and non-payers. The pickpockets' activities are particularly onerous since they directly affect customers and as a result, harm the restaurant's image as a safe and comfortable place.

All respondents pointed at the insiders as a main source of criminal threats to the restaurants. The groups of restaurateurs, managers and employees have jointly agreed on this point. Moreover, the detailed discussions have shown that both restaurateurs and managers were well aware of such a state of affairs. The employees saw the insider activities as occurring on a far greater scale than in the perception of restaurateurs and managers. The current research allowed for accurate recognition of this phenomenon.

By committing their acts, the insiders inflict heavy losses on restaurateurs. The latter in turn, do not take any actions to tackle the problem but rather, include the sustained losses in the costs. Despite being well aware of the threats, they do not make any attempts to minimize this phenomenon. In their own judgment, the restaurateurs tend to underestimate the frequency of criminal activities and the extent of the resultant losses.

In the authors opinion, it is necessary for entrepreneurs to reinforce the applied preventive measures. First of all, one needs to increase among them awareness of the existing threats, their scale, frequency and the amounts of losses they may cause. At the same time, the prosecuting authorities ought to gain better knowledge about the problem and the specificity of this type of crime. The lack of successful prosecution inevitably leads to increased sense of impunity among the perpetrators and escalates their criminal conduct.

Translation: *Rafał Wierchośławski*