

## Resolution on the termination of criminal case

Saratov city

11 December 2019

Senior Investigator of the Investigative Department of the Ministry of Internal Affairs of Russia for the city of Saratov mvl: Mr. S.Yu. Mironov, having considered the materials of the criminal case -Vo 1170163 LLC 1000127,

FOUND:

Criminal case No. 11701630001000127, initiated on June 30, 2017, is in the production of the MC of the Office of the Ministry of Internal Affairs of Russia in Saratov. on the grounds of a crime under Part 6 of Art. 159 of the Criminal Code of the Russian Federation, on the fact of non-fulfillment of contractual obligations of LLC Company ALSiTEK under the concluded agreement No. 3 / 12-12 dated September 4, 2012 for the transfer of property - optical fibers of a communication line (hereinafter FOCL), thus, committed theft of the Company's funds in the amount of RUB 10,926,924

The reason and the basis for the initiation of criminal cases was the material of the check, registered in the KUSP No. 7525 dated July 23, 2015 - on the basis of the statement of the General Director of the JSC firm "SMUR N.D. , on the fact of the fraudulent actions committed against the organization by the management of ALSiTEK Company LLC by signing an agreement No. 3 / 12-12 dated September 04, 2012 on the transfer of property, without intending to further execute it, which stole the Company's funds in the amount of 10,926 RUB 924

Based on the results of the audit, it was established that on September 10, 2012, the general director of the JSC firm "SMUR" ND Torokhov, signed with LLC "Company" ALSiTEK "represented by the general director Salimov I.I. agreement No. 3 / 12-12 of September 04, 2012 for the sale and purchase of optical fibers and a share in the right of common shared ownership in a fiber-optic communication line in the Voronezh and Saratov regions, in fulfillment of obligations under which in the period from October to December 2012 JSC firm "SMUR" made a payment in the amount of 10 926 924.96 rubles by wire transfer to the settlement account of the seller - LLC "Company" ALSiTEK ", opened in the Saratov branch No. 8622 of Sberbank of Russia. However, the management of LLC "Company" ALSiTEK "has deliberately failed to fulfill its obligations to transfer the property to JSC "SMUR", thereby stealing money belonging to "SMUR" in the amount of 10,926,924.96 rubles.

During the preliminary investigation of the criminal case, it was established that on September 10, 2012, the general director of Firm SMUR JSC, ND Torokhov, under the influence of deception and being misled (according to the statement of ND Torokhov), signed with LLC "Company ALSiTEK", represented by General Director Salimov I.I. agreement No. 3 / 12-12 dated September 04, 2012 for the sale and purchase of optical fibers and a share in the right of common shared ownership in a fiber-optic communication line in the Voronezh and Saratov regions with a total value of 18,520,211.79 rubles, in fulfillment of obligations under which, in three stages, within a calendar year from the date of its signing, make payments as the optical fibers are transmitted. In the period from 04 September 2012 to December 28, 2012 organization JSC "Firm" SMUR "partially paid in the amount of 10,926,924 rubles. by wire transfer to the seller's settlement account - LLC "Company ALSiTEK", opened in the Saratov branch No. 8622 of Sberbank of Russia.

As follows from the content of the contract No. 3 / 12-12 dated September 04, 2012, the buyer of Firm SMUR JSC undertakes to pay and take ownership of the ALSiTEK Company LLC from the seller:

- 4 optical fibers - OV standard G.652 and 4/72 shares in the right of common share ownership of the sheath, protective and power elements of an optical cable, couplings, crosses in the Borisoglebsk-Rogachevka FOCL in the section from the M2A ORTTSH coupling in the Tellermanovsky settlement of the Gribanovsky district Voronezh region to the M1u coupling of automatic telephone exchange of OJSC Rostelecom Borisoglebsk, st. K. Marx, 76 with a total length

of 6.8 km. The total length of the OC, which includes the transmitted OM, is 351.878 km.

- 4 optical fibers - G.652 standard optical fiber and 4/64 shares in the right of common share ownership of the sheath, protective and power elements of the optical cable, couplings, crosses in the Saratov-Ozinki FOCL with a total length of 345.078 km. The total length of the transmitted OV is 1407.512 km.

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According to this agreement, the individualizing signs of the transferred property, as well as the route of the FOC, the list of OV sites, the contractual price of the OV are indicated in the Statement of the transferred property.

- Contract No. 3 / 12-12 of September 04, 2012 stipulates the conditions under which payments and transmission of these optical fibers are first transferred for temporary use, and then into ownership, which is done in stages in the following order:

- the first stage in the amount of 25% of the value of the property, amounting to 4 630 052.95 rubles 95 kopecks, the buyer makes within a period not later than 10 days after receiving the invoice issued by the seller. The Seller undertakes to issue an invoice within 3 calendar days after signing the Agreement by both Parties.

- Further, after the buyer makes the first payment, the seller, within 10 calendar days, carries out the procedure for receiving and transferring property for temporary use to the buyer 4 optical fibers in the FOCL Saratov - Ozinki and FOCL ORTPTS - Borisoglebsk, indicated in the Statement of the transferred property for temporary use and the Parties sign the Acceptance Certificate - transfer of property for temporary use 4 optical fibers in the fiber-optic communication line Saratov-Ozinki and the fiber-optic communication line ORTPTS - Borisoglebsk.

- After the seller provides 4 optical fibers and the Parties have signed the Transfer and Acceptance Certificate of 4 optical fibers in the Saratov-Ozinki and ORTPTS-Borisoglebsk fiber optic communication lines for temporary use, the buyer, within 10 calendar days after signing the specified Transfer and Acceptance Certificate for temporary use, pays the second payment in the amount of 25% of the property value, amounting to 4 630 052 rubles. 95 kopecks. If the second payment is not made within the specified period, the temporary use of 4 optical fibers in the Saratov-Ozinki FOCL and the ORTPTS - ■ Borisoglebsk terminates until the second payment is made.

- the second stage after the buyer makes the second payment, the seller within 30 calendar days makes the procedure for transferring 4 optical fibers into the ownership of the buyer in the Borisoglebsk-Rogachevka FOCL in the section from the M2 A clutch of the ORTPTS settlement Tellermanovskiy, Voronezh region to the M1 ATS clutch of OJSC Rostelecom Borisoglebsk, st. K. Marx, 76 and 4 optical fibers in the FOCL Saratov - Ozinki on the Ozinki-Ershov section, indicated in the Bulletin of the transferred Property into ownership according to the 1st stage and the Parties sign the Act of acceptance and transfer of property into the ownership of the 1st stage 4 optical fibers in the fiber optic communication line Borisoglebsk - Rogachevka in the section from the M2A clutch ORTPTS P. Tellermanovsky Gribanovsky district of the Voronezh region to the M1ATS clutch of OJSC Rostelecom Borisoglebsk, st. K. Marx, 76 and 4 optical fibers in the FOCL Saratov - Ozinki in the Ozinki - Ershov section.

- - third stage payment in the amount of 50% of the property value, amounting to 9 260 105 rubles. 90 kopecks. paid by the buyer within one calendar year from the date of signing the contract, after making the first and second payments. After the buyer makes the third payment, the seller, within 30 calendar days, carries out the procedure for the transfer and acceptance of the ownership of the buyer 4 optical fibers in the Saratov-Ozinki FOCL on the Ershov-Saratov section, indicated in the Statement of the transferred property in the ownership of stage II and the Parties sign the Transfer and Acceptance Act property in the ownership of stage II 4 optical fibers in the Saratov-Ozinki fiber-optic link on the Ershov-Saratov section. If the third payment is not made within the specified period, the

temporary use of 4 optical fibers in the FOCL on the Ershov-Saratov section is terminated until the third payment is made.

Also, according to the terms of the contract, simultaneously with the transfer of the Property into ownership, the seller transfers to the buyer the corresponding Shares:

-4/72 shares in the right of common share ownership of the sheath, protective and power elements of the optical cable, couplings, crosses in the Borisoglebsk-Rogachevka FOCL in the section from the M2 A coupling of the ORTPTS settlement Tellermanovskiy, Gribanovsky district of the Voronezh region to the MIATCpAQ coupling Rostelecom, Borisoglebsk, st. K. Marx, 76 after the second payment;

-4/64 shares in the right of common share ownership of the sheath, protective and power elements of an optical cable, couplings, crosses in FOCL Ershov - Ozinki after the second payment;

-4/64 shares in the right of common share ownership of the sheath, protective and power elements of the optical cable, couplings, crosses in the Saratov-Ershov FOCL after the third payment.

The transfer of property occurs simultaneously with the signing by the parties of the Acceptance and Transfer Certificate of Property into Ownership (signed on November 21, 2012) in accordance with the Appendices to the Agreement No. 4 and No. 6, a consignment note in the form of TORG-12 and an invoice. The procedure for the acceptance of OM according to the Acts of acceptance - transfer of OM must comply with the rules set forth in Appendix No. 7 and Appendix No. 3 to this Agreement.

From Stage 1 Acceptance and Transfer Acts it follows that ALSiTEK Company LLC transferred the following property (optical fibers):

1. main distribution coupling MRM50 near the village of Stolyary, Ozinsky district of Saratov region (point 1), distribution main coupling RM21 near the village of Ozinki, Saratov region (point 2) - DKP-7-6-6 / 64 - 4 fibers (5 gray, 6 white, 7 red, 8 black), with a total length of 19,800 km - worth 260,530.78 rubles.

2. Trunk distribution coupling RM21 near the settlement of Ozinki, Saratov region (point 1), Optical distribution frame in a container on the territory of the Ozinsky elevator at the address: Saratov region, Ozinki avenue, 8 Marta street, 38 (point 2) - DKP-7- 6-6 / 64 - 4 fibers (5 gray, 6 white, 7 red, 8 black), with a total length of 20.560 km - costing 270 530.94 rubles.

3. main distribution coupling RM21 near the settlement of Ozinki of the Saratov region (point 1), Optical distribution frame in a container on the territory of the RTRS "Saratov ORTPTS" at the address: Saratov region, Ershov, Militiorativnaya street, 32A (point 2) - DKP- 7-6-6 / 64 - 4 fibers (5 gray, 6 white, 7 red, 8 black), with a total length of 124.525 km - costing 6,554,059.57 rubles.

4. clutch M2A ORTPTS settlement Tellermanovskiy, Gribanovsky district, Voronezh region (point 1), clutch MI automatic telephone exchange of OJSC Rostelecom Borisoglebsk, st. K. Marx, 76 - DKP-7-6-6 / 72 - 4 fibers (without color), with a total length of 6.8 km - worth 357,900.86 rubles.

In the period from 04 October 2012 to December 28, 2012 JSC "Firm" SMUR "made a partial payment in the amount of 10,926,924 rubles by wire transfer to the settlement account of the seller - LLC" Company ALSiTEK ", namely:

- payment order No. 932 dated 04.10.2012. in the amount of 4,000,000 rubles;
- payment order No. 934 dated 05.10.2012. in the amount of 1,463,462.48 rubles;
- payment order No. 782 dated 26.1 January 2012. in the amount of 1,000,000 rubles;
- payment order No. 900 dated 07.12.2012. in the amount of 200,000 rubles;

- payment order No. 936 dated 12.12.2012. in the amount of 1,000,000 rubles;
- payment order No. 91 dated 28.12.2012. in the amount of 3,263,462.48 rubles;

However, in February 2013. in the implementation of JSC "Firm" SMUR "

temporary use of the Property, in particular, during the emergency recovery work on the Saratov - Ershov section, it was found that:

1. the identifying signs of the Property actually transferred for temporary use do not correspond to the identifying signs of the Property, which are indicated in the Statement of the transferred property and in the Act of acceptance and transfer of property for temporary use dated 10.10.2012, signed by the parties to the Agreement. The numbers of actually, transferred and currently used ports on the optical crossbar do not correspond to the numbers of optical fibers specified in the Act of acceptance and transfer of property for temporary use dated 10.10.2012.

2. the couplings on the fiber-optic cable are made of poor quality: in the couplings, the module numbers are mixed up and do not join one to the other.

3. the couplings are made in violation of the technical requirements established by the legislation of the Russian Federation, as a result of it there is water in them.

In the spring of 2013. due to disagreements arising under the agreement between LLC "Company ALSiTEK" and JSC "Firm" SMUR " within the framework of the contractual relationship, litigation began in the Arbitration Courts of the Saratov and Voronezh Regions to terminate this agreement with the presentation of mutual claims and claims.

Evidence for criminal prosecution of the founder of LLC "Company ALSiTEK" Salimov I.AND. during the investigation it was not obtained, which is confirmed by the materials of the criminal case.

Thus, the general director of JSC "Firm" SMUR " ND Torokhov, interrogated as a victim. showed that since the conclusion and execution of contract No. 3 / 12-12 dated September 4, 2012, CJSC firm "SMUR" paid LLC "Company" ALSiTEK "monetary funds in the total amount of 10,926,924.96 rubles, the last payment was made on 28 December 2012 However, LLC "Company" ALSiTEK ", despite the funds received from JSC firm " SMUR ", upon signing the Act of acceptance and transfer of property into ownership according to Stage I of 21.11.2012. in violation of clause 1.6 of the Agreement, it did not transfer to the buyer the technical documentation provided for by the "Technical Requirements for Property" for the allegedly transferred optical fibers. Failure to receive technical documentation by LLC "Company" ALSiTEK " did not allow employees of JSC " SMUR " to correctly identify the allegedly purchased optical fibers upon signing on October 10, 2012. The act of acceptance and transfer of property for temporary use, as well as upon signing on November 21, 2012. The act of acceptance and transfer of property into ownership for Stage I. As a result, JSC firm "SMUR"

sent written claims to LLC "Company" ALSiTEK "about the need to transfer technical and other documentation for the optical fibers purchased under the Agreement, to which the seller actually refused, ignoring these claims. 06 February 2013 LLC "Company" ALSiTEK "without warning switched off the equipment of fiber-optic communication lines installed by CJSC" KV ANT-TE LECOM "on property not related to the subject of the Agreement, but actually transferred to JSC" SMUR "instead of the optical fibers specified in the Agreement.

Litvinova N.N., interrogated as a representative of the victim of Firm SMUR JSC. testified that on September 10, 2012 the general director of JSC firm "SMUR" Torokhov ND, signed with LLC "Company" ALSiTEK ", represented by the general director Salimov I.I. agreement III 3 / 12-12 dated

September 04, 2012 for the sale and purchase of optical fibers and a share in the right of common shared ownership in a fiber-optic communication line in the Voronezh and Saratov regions, in fulfillment of obligations under which in the period from October to December 2012 JSC firm "SMUR" made a payment in the amount of 10,926,924.96 rubles by wire transfer to the settlement account of the seller - LLC "Company" ALSiTEK ", opened in the Saratov branch No. 3622 of Sberbank of Russia. However, the management of LLC "Company" ALSiTEK "deliberately failed to fulfill its obligations to transfer the property to JSC "SMUR", thereby stealing money belonging to JSC "SMUR" in the amount of 10,926,924.96 rubles.

Until now, for 6 years, in the arbitration court procedure in the Arbitration courts of the Saratov and Voronezh regions, litigation between LLC "Company" ALSiTEK ", LLC "MMTS ", IE Salimov II. and JSC firm "SMUR", JSC "Quant - Telecom". Organizations LLC "Company" ALSiTEK ", LLC "MMTS ", IE Salimov I.I. presented to the organizations belonging to Ya.D. Torokhov. claims for a total amount of at least 1 billion rubles, with the total annual turnover of the group of companies owned by N.D. Torokhov is about 2 billion rubles, which can significantly undermine the financial condition and solvency of the latter, as well as the reputation of the group of companies, in particular in the international telecommunications market.

However, despite the evidence in the case, the courts of appeal and cassation concluded that there was no significant violation of the terms of the contract on the part of the Seller due to the transfer of optical fibers with other identifying features under the disputed agreement, while the courts did not indicate which property was transferred to the buyer, and also did not take into account the fact that the transferred property was turned off on February 6, 2013.

Thus, the representative of the victim believes that the buyer, not having information about the identifying features of the Property, will not be able to find and use the so-called "own" 4 optical fibers among other optical fibers available in this BOJIC. Thus, the seller did not fulfill the controversial contract, the property specified in the subject of the controversial contract, in the Act of acceptance and transfer of property for temporary use of October 10, 2012. and the Act of Acceptance and Transfer of Property into Ownership in Stage 1, he has not transferred to the buyer until now and cannot transfer, in principle, due to the absence of the specified Property in reality. The buyer, in turn, not having information about the identifying features of the property, will not be able to find and turn on the so-called "own" 4 optical fibers among other optical fibers available in this FOCL. Thus, the seller did not fulfill the controversial contract, the property specified in the subject of the controversial contract, in the Act of Acceptance and Transfer of Property for Temporary Use from Legal Entity and the Act of Acceptance and Transfer of Property into Ownership in Stage 1, he has not transferred to the buyer until now and cannot transfer, in principle, due to the absence of the specified property in reality. The buyer's use of the property that actually exists is owned by the seller and was actually incorporated by the seller on October 10, 2012. to work for the buyer, and then turned off by the seller on February 6, 2013, is nothing more than an extra-contractual use by the buyer of the property, which does not generate any legal consequences, except for hypothetical unjust enrichment.

The buyer did not have and does not have any legal basis for the possession, use and disposal of the property that actually exists and was included for the use of JSC "SMUR" company in the period from October 10, 2012. to 06 February 2013 The actual transfer for temporary use of the specified, actually existing property, did not become the property of the buyer and the buyer has no legal grounds to acquire it.

Interrogated as a witness S.V. Kochetova, the chief specialist - expert of the Roskomnadzor Administration for the Saratov Region testified that ALSiTEK Company LLC has fiber-optic communication lines that were used to transmit data on the border area with the Republic of

Kazakhstan, located on the Saratov-Ozinki section, optical whose fibers they sold and leased to telecom operators. In 2012 - 2013. JSC firm "SMUR" did not have its own optical fibers, in its activity they used fibers of LLC "Company ALSiTEK", the operators did not have any complaints about the quality of communication and was carried out without interruption, since all fibers used in the FOCL do not affect the quality of services provided communication. Since May 2017 JSC firm "SMUR" began to use its own fiber-optic communication line located on the section Voronezh-Saratov - the state border of the Republic of Kazakhstan. Information on the commissioning of telecommunication line structures to the Office in the period from 2012. to date, no data has been provided from this organization, the provision of data is not mandatory for the organization. If this organization would begin to provide communication services as an operator (for which they had a corresponding license), then in accordance with Order No. 113 of the Ministry of Telecom and Mass Communications of the Russian Federation "On approval of requirements for building a communication network" (in force until 2014) they needed provide the following documents: a building permit from land owners, copies of licenses, a copy of a certificate of admission to a certain type of work, a construction project, certificates, a declaration of conformity, test reports, an expert opinion on the project and other necessary documents. After that, the telecom operator prepares an act of acceptance of the completed construction of the facility by the acceptance commission, which was subsequently signed. There is an appendix to this act, which indicates the basic data on the construction and communication, namely: the equipment used on the communication network, as well as the cable, its brand and type, the cable manufacturer and the certificate of its conformity. This information is entered directly by the operator of the provision of communication services, the employees of the Office do not independently check all the information regarding the cable, since it is located in the ground with limited access. The functions of the Department include overseeing the uninterrupted provision of communication services in accordance with the license for the provision of communication services issued by Roskomnadzor, that is, uninterrupted provision of services within 24 hours. The actual interest of the telecom operator is in the quality provision of telecom services, in order to extract profit from this.

According to the information provided to the Office in the specified period, the organization LLC Company ALSiTEK had a fiber-optic communication line located on the Saratov-Ozinki section, which, based on the documents submitted from the operator MMTS LLC (Saratov), was used by the latter for data transmission in the border area with the Republic of Kazakhstan. The organization LLC "Company ALSiTEK" itself did not provide communication services. The organization JSC firm "SMUR", in the specified period of time, did not have its own fiber-optic lines, however, according to information provided by the operator, LLC "Quant-Telecom" (Voronezh) in May 2017. they began to use fiber-optic communication lines, the owner of which is the JSC firm "SMUR" transport network located on the section Voronezh-Saratov-state border of the Republic of Kazakhstan. From telecom operator LLC "Quant - Telecom" (Voronezh) in December 2013 the Office received documents on the lease of 2 optical fibers located in the fiber-optic communication line owned by the ALSiTEK Company LLC, where the connection was carried out in the equipment room (basement) at the location of the organization's office at:.

Saratov, st. B. Kazachya, 6. He does not know whether there were any financial relationships for the sale and purchase of optical fibers of FOCL between these organizations, since this information is not provided to the Office. The line itself consists of a cable located

in the ground, or passing in underground utilities. The cable consists of a sheath in the middle of which there is a central power element, which ensures the safety of its breaking. The cable contains optical modules in which optical fibers are located, which can be connected from a coupling located in underground wells, or from an equipment cabinet located in technological rooms.

Responsibility for the correct submission of documents to the Office during the commissioning of the BOJIC, as well as the indication of information in the sale and purchase agreements when the owner is changed to optical fibers, rests with the telecom operator providing services for the transfer

of information, since according to its technical requirements and its obligations to consumers, he is responsible for the quality of the services provided. When signing any documents between the owner of BOJIC and the telecom operator, equipment is tested to determine its quality, speed and other criteria necessary for its use.

According to the information available in the Office, on the basis of the act of December 18, 2013. commissioning BOJIC from the operator LLC "Kvant-Telecom" (Voronezh) received on the basis of a lease agreement 2 optical fibers in a cable of the DKP - 7-6-6 / 64 type, the colors of which are not indicated, which were located from Ershov to the border area of the Republic of Kazakhstan. Until that date, other telecom operators who provided telecom services using BOJIC, owned by LLC "Company ALSiTEK" until 2012. does not appear. Accordingly, any of the telecom operators could not legally provide information transfer services and make a profit.

This circumstance does not affect the quality of the provision of services to consumers, however, this issue is more related to technical specialists. As for the legal issues when signing contractual documents between organizations, each of the parties independently assumes responsibility, which should not affect the quality and durability of the provision of communication services to the consumer.

When inspecting the equipment put into operation FOCL, it is impossible to determine the color cladding of the fiber located in the optical coupling, since all lines are in a solid insulating sheath. According to the documents presented to him for review, it is obvious that at the end of 2012. according to the above agreement, the owner of the fiber-optic communication line from Balashov to Ozinka was the organization LLC Company ALSiTEK, along this line there are control rooms in which the equipment is located. According to agreement No. 3 / 12-12 of September 04, 2012, Firm SMUR JSC purchased 3 pieces of optical fiber from ALSiTEK Company LLC, namely: 124.525 km Ershov - Ozinki; 5.140 km near the settlement of Ozinki to 8 Marta street on the territory of the Ozinsky elevator; 4.950 km. Near the village of Stolyary near the village Ozinki and the fourth section on the territory of the Voronezh region 6.8 km.

Interrogated as a witness General Director of LLC "Company ALSiTEK" Polyakova N.The. testified that she had worked in the organization of LLC "Company ALSiTEK" since 2000. in various positions. Organization LLC "Company ALSiTEK" was founded in 1994. and operates to the present, the main activity is the provision of communication services in the Russian Federation. The organization is located at: Saratov, B. Kazachya st.,

8d in a rented multi-storey administrative building, owned by I.I. Salimov, he is also the founder of this organization. Until 2012. she worked as deputy general director for quality. During the period of her work in this position, her duties included the creation of a quality management system and its maintenance in the working organization (development of enterprise standards). The general director at that time was Salimov I.I. to May 2016, then Sergei Vladimirovich Chebanenko was appointed General Director, and from 01.12.2016. she has already been appointed to the position of CEO. Her duties as the General Director of LLC "ALSiTEK Company" include representing the interests of the organization, concluding contractual relations with counterparties, and general control over the activities of the organization. She knows that an agreement No. 3 / 12-12 dated December 04, 2012 was concluded with the JSC "SMUR" company. purchase and sale of optical fibers and a share in the right of common shared ownership in a fiber-optic communication line on the territory of the Voronezh and Saratov regions with a total value of 18,520,211.79 rubles, in fulfillment of obligations under which in three stages within a calendar year from the moment of signing payments as the transmission of optical fibers. The payment took place in three stages, as she knows from the first stage, from the side of Firm SMUR JSC, payment was made at the end of 2012, according to the terms of the agreement, an act of acceptance and transfer of the specified equipment was drawn up, with any complaints (neither orally, nor in writing ) to quality on the part of JSC "Firm" SMUR "did not arise. After the transmission of optical fibers in the indicated directions, the organization of Firm SMUR JSC began to provide communication services to various contractors, which I do not know. There is no special documentation for the right of disposal for each optical fiber. The purchase and sale agreement

and the acceptance certificate are the fundamental document for the disposal of them. On the balance sheet of ALSiTEK Company LLC there is a fiber-optic communication line (FOCL) which was built (laid) by their organization earlier, does not remember the exact date, this cable contains at least 70 optical lines through which communication is carried out, these fibers have their color shades. How they connect she does not know, since she did not deal with technical issues.

JSC "Firm" SMUR "subsequently could resell to other counterparties the specified fibers located in our FOCL, which were also able to provide communication services and receive profits, if JSC<sup>8</sup> "Firm" SMUR "fulfilled its obligations to pay for all stages, in accordance with contract No. 3 / 12-12 dated December 04, 2012, which they did not do. The last payment was made at the end of December 2012, in view of the fact that from the side of Firm SMUR JSC various claims began to arise related to incorrectly indicated color marking in the nodes of the connections (wells) with the indicated colors in the contract and the act of acceptance of the transfer. However, she knows that, according to technical experts, the quality of optical fibers located in the fiber-optic communication line is the same, all technical characteristics are the same and do not affect the quality of the communication services provided, and dyeing of the optical fibers located in the fiber-optic communication line is necessary only for the convenience of connection. The price for these optical lines indicated in the purchase and sale agreement No. 3 / 12-12 dated December 04, 2012 was made up of the costs associated with the construction of this fiber-optic link, which includes the costs of permits, the use of construction equipment, workers and other related costs.

JSC "Firm" SMUR "has repeatedly appealed to the Arbitration courts with claims for termination of the specified agreement, as well as unjust enrichment and payment of a penalty, interest for the use of other people's funds, decisions of the Voronezh Arbitration Court dated January 09, 2018. were satisfied in full. By the decision of the Nineteenth Arbitration Court of Appeal on September 14, 2018. decision of January 09, 2018 was canceled in the satisfaction of the stated claims was completely refused. By the decision of the Arbitration Court of the Central District of January 31, 2019. Resolution of the Nineteenth Arbitration Court of Appeal on September 14, 2018 was left unchanged, and the cassation appeal was dismissed. Thus, by the judicial acts of the arbitration courts that entered into legal force (resolution of the Nineteenth Arbitration Court of Appeal dated September 54, 2018, the resolution of the Central District Arbitration Court dated January 31, 2019) in case No.A14-8464 / 2015, it was established that the JSC firm "SMUR" received under the contract No. 3 / 12-12 of 04.09.2012. property and used it, leasing to JSC "QUANT-TELECOM". In addition, the court acts of the arbitration courts that have entered into legal force (resolution of the Twelfth Arbitration Court of Appeal dated 13.12.2017, resolution of the Arbitration Court of the Volga Region dated 17.05.2018, determination Of the Supreme Court of the Russian Federation dated 08.22.2018) in case No.A57-233 / 2017, it was also established that the JSC firm "SMUR" received property under contract No. 3 / 12-12 dated 04.09.2012 and used it by leasing JSC "QUANT-TELECOM", and contract No. 3 / 12-12 dated 04.09.2012. the sale and purchase of property for the second stage (at the Saratov-Ershov section of the Saratov-Ozinki fiber optic link) was terminated by ALSiTEK Company LLC due to unilateral cancellation of the contract due to violation of the terms of the contract by JSC SMUR on payment of the third payment, which was accepted by JSC "SMUR".

The chief accountant of LLC "Company" ALSiTEK "NL Pritugina interrogated as a witness. showed that she has been working in the organization LLC "Company ALSiTEK" since December 2016. up to the present, the General Director of the organization at the time of its work is N.V. Polyakova. At the time of her arrival in the organization, LLC "Company ALSiTEK" already had a FOCL line in the direction of Saratov - Ozinki, which, as she knows from the employees, was built by this organization, and Saratov - the village of Rogochevka, Voronezh region, was built by various contractors with the participation of their organization, but The fiber-optic communication line was being serviced by their organization, there was also a fiber-optic communication line in the direction of Ershov - Ozinki, which, as she knows, was purchased from the organization OJSC "RetnNet". Accounting for distributed optical fibers (color, number, brand) located in the FOCL and drawing up schemes for their distribution are entrusted to the specialists of the site, as well as to the design team.

In the accounting of the organization, only the number of optical fibers on the balance sheet is indicated, without any technical markings and color features.

According to the accounting documents, in September 2012. contract No. 3 / 12-12 was concluded in the amount of 18 520 211.79 rubles. LLC "Company ALSiTEK" represented by the director Salimov I.I. with the organization of JSC firm "SMUR", consisting of three stages on the transmission of optical fibers located in the fiber-optic communication line and being on the balance sheet in the organization located in the Voronezh (Borisoglebsk-Rogachevka) and Saratov (Saratov-Ozinki) regions. According to this agreement, according to the first and second stages, fibers were transferred for temporary use Borisoglebsk - Rogachevka, Ershov - Ozinki (Elevator - RZhB station), Saratov - Ershov and Bkazachya street,

6 - Chernyshevskogo str., 197, according to the documents, the organization JSC firm "SMUR" made payments in the amount of more than 10 million rubles. (does not remember the exact amount). According to the available documents for the first stage of the contract when signed on October 10, 2012. The act of acceptance and transfer of property for temporary use, as well as upon signing on November 21, 2012. The act of acceptance and transfer of property into ownership. the representatives of JSC firm "SMUR" were satisfied with the quality and quantity of optical fibers in full, there were no complaints about the reception. Further, according to the agreement, the organization JSC firm "SMUR" on the second stage had to pay the third payment in the amount of 10,900,000 rubles, while LLC "Company ALSiTEK" had to transfer the ownership of optical fibers to the ownership of Saratov - Ershov, however, for some for reasons this was not done. Subsequently, according to the documents, mutual claims were presented, which were resolved in the Arbitration Courts. She knows from documents in 2015. there was a court case on the return of the previously transferred optical fibers Saratov - Ershov from the temporary use of the JSC firm "SMUR", according to the results of which, based on the decision of the Arbitration Court in 2018. these fibers were returned to them. These fibers were subsequently sold to the organization DSPS LLC (Saratov), which did not present any claims about their use. Attached to the interrogation protocol was an accounting certificate on stage 1 of contract No. 3 / 12-12 dated 04.09.2012. on 114 sheets, accounting certificate for the 2nd stage of the contract No. 3 / 12-12 dated 04.09.2012. on 168 sheets.

Interrogated as a witness A.R. Nefedova showed that in the organization LLC "Company ALSiTEK" started working in October 2013. in various positions, before January 2019 She worked as an engineer in the design group, at present she is the head of the design department of LLC ALSiTEK Company. During her work as the head of the design department, her duties included the preparation of design documentation for the construction of a fiber-optic communication line, which is on the balance sheet of LLC ALSiTEK Company. At the time of her arrival in the organization, according to the existing documents in the organization, there was a fiber-optic link on the Balashov - Saratov - Ershov section, who at the moment does not remember who it was built by. At the time of her employment in the organization, the construction of a fiber-optic line on the Ershov - Ozinki section was nearing completion. The construction was carried out by their organization, while the project documentation was being prepared, which included the following documents: an explanatory note - in which I indicated the location of the communication cable, the general characteristics of the object; the project of the right-of-way - in which the points of the protected zones were designed for cadastral registration; linear structures - technological and structural solutions of a linear object; fire safety measures. Her responsibilities directly included the design of a linear facility, taking into account the technical feasibility of laying fiber-optic communication lines (terrain, study of adjacent territories, taking into account protected zones and objects). About financial and economic relations with the organization JSC firm "SMUR", where the director was N.D. in 2012. on the conclusion of the contract No. 3 / 12-12 dated December 04, 2012. purchase and sale of four optical fibers and a share in the right of common share ownership in a fiber-optic communication line in the Voronezh and Saratov regions. It is known from the documents that no one had any complaints about the quality of communication services in the direction of Ershov - Ozinki,

Interrogated as a witness Zadnov A.The. testified that he started working in the organization LLC "Company ALSiTEK" since 2003. in the position of the head of the transport section of LLC "Company ALSiTEK" from February 02, 2011. During his work as the head of the transport section, his duties included the complete management of the transport section (equipment), fuels and lubricants, the calculation of business trips to travel to communication centers by employees at the construction sites of a fiber-optic communication line, which is on the balance of LLC ALSiTEK Company.

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At the time of his arrival in the organization, due to the fact that the license for the construction of fiber-optic communication lines was temporarily not available by the management of LLC "Company ALSiTEK" in agreement with the organization LLC "SMU Promsvyazmontazh"

(Saratov) (licensed), their organization, having the technical ability to build fiber-optic communication lines, acted as a contractor. Initially, the FOCL began to be built in the summer of 2011. from Engels in the direction of Ershov, then after passing all the approvals on the conditions for the construction of fiber-optic communication lines within the city limits, the construction of the highway to the communication center located in the basement of the office of LLC Company ALSiTEK, where the station is located, where the optical fibers are connected, are continued. Around the summer of 2012. A fiber-optic link was built in this section. On the Ershov-Ozinki section, he does not remember who built it. 16 optical fibers on the Ershov - Ozinki section were purchased from RetnNet JSC, he no longer remembers all the details of the acquisition. Subsequently, at the end of 2012, four of these optical fibers purchased from RetnNet CJSC were sold by ALSiTEK Company LLC to SMUR CJSC under an agreement, the terms of the agreement are not known to him. The communication cable located in the FOCL on the Saratov - Ershov - Ozinki section was purchased in various cities. The drum could fit from 100 m to 8 km in total. Depending on the size of the drum, during the construction of the fiber-optic link, this cable was purchased from various organizations, since it was not always available in a certain place, and also depending on the distance of its transportation.

By what technical criteria was the communication cable used in the fiber-optic communication line selected, who calculated the technical characteristics, its service life and quality, he personally does not know. According to Andrey Poretskov, Head of the Optical Fiber Welding Department (currently not working, permanently resides in Chekhov, Moscow Region), the optical fiber itself consists of a transparent tube through which it passes at a high speed of light (laser), the fiber itself is guided in isolation with other fibers located in an optical sleeve, which is also insulated. The optical couplings themselves are located around the power cable in various quantities depending on the number of fibers in the fiber-optic link, which is also in a denser insulation of a certain standard marked 4/72, where 4 is the number of optical modules, and 72 is the number of optical fibers in it, it also happens 4/64. During his work, he came across cables marked 8, 16, 24, 32,64,72,96, which are used depending on the needs of the lines, while the optical fibers themselves always go of the same type, while he knows the differences in the fibers themselves there is none. He does not know if they have any markings or colors, since according to the welders they are all transparent. He does not know how the welders make the joints, but they use high-precision equipment. The transparent fiber function serves as a high-speed line, through which the light signal is transmitted 15 million times faster than copper connection and the thickness of the optical fiber does not in any way affect the quality and speed of communication services.

From the words of the employees, he knows that earlier with the JSC firm "SMUR" there were joint relationships during the construction of fiber-optic communication lines, in 2012.

optical fibers were transmitted, under what conditions he does not know. However, later there was some kind of conflict of interest, after which the relationship was terminated. As he remembers, the employees of the organization JSC firm "SMUR" at the end of 2012. Before purchasing the fibers, they tested the speed and quality of communication, signed some documents that they were satisfied

with everything, what happened later he does not know. Accidents at FOCL sections were eliminated as soon as possible in order to avoid penalties, there were never any lengthy outages. Organization LLC "MMTS" is, as he knows, their organization, only it provides communication services as an operator; the organization of OJSC Kvant-Telecom, as he knows, is directly related to the JSC firm "SMUR", as their communication operator; ZAO RetnNet was the owner of FOCL from Ershov to Ozinki.

Interrogated as a witness A.A. Komashko testified that he started working in the organization LLC<sup>1</sup> "Company ALSiTEK" in November 2013. later he continued his work at MMTS LLC as the head of the section. During the period of work in the position of the head of the section, the repair and maintenance of fiber-optic communication lines owned by LLC "Company ALSiTEK" in the directions Saratov - Ershov - Ozinki and Saratov - the village of Rogochevka, Voronezh region, were included. The General Director at the time of joining the organization was I.I. Salimov. until May 2016, then S.V. Chebanenko was appointed the CEO, and from December 01, 2016. already Polyakova N.V. was appointed to the position of General Director, which is still working. At the time of joining the organization, LLC "Company ALSiTEK" already had a fiber-optic line in the direction of Saratov - Ershov, which, as I know from the employees, was built by their organization, and Saratov - the village of Rogochevka, Voronezh Region, by whom it is not known, but it was located on servicing our organization, there was also a fiber-optic link in the direction of Ershov - Ozinki, which, as she knows, was purchased from the organization OJSC RetnNet. The cable used in the FOCL depends on the technical requirements for the provision of communication services to the consumer, the service life of the cable itself (DCP, SP, etc.) located in the FOCL is at least 30 years, according to the letter dated 06.06.2018. No. 220 provided by the plant

- by the manufacturer. The DKP cable is laid in the ground without any special sheath, cables of the SP brand and others have the same technical characteristics and service life, the difference is that the methods of its laying, which was carried out using pneumatic laying of the cable in an NMP pipe. In fact, optical fibers differ in standards (G) 652, 655, which in turn have their own technical characteristics, which does not affect the service life and quality of communication. However, optical fibers G 652 and 655 were used in the FOCL route that were used by our organization. The organization does not need to maintain technical records, since all the technical characteristics of the fibers are the same, and their security is in accordance with all the standards of the cable used in the route. In fact, there is no numbering for optical fiber sleeves, they can differ in color scheme, optical fibers themselves can also differ in color scheme, as well as colorless, their numbering exists for ease of service in organizations using fibers. In the event of any emergency, any cable for DCT, SP, DS and others can be used when repairing a cable, since they are all the same in terms of their technical characteristics and service life. The optical couplings available in them, in which the optical fibers are located during repair (welding), are connected by high-precision equipment into a single circuit. A piece of optical cable presented for review, through which he explained that the optical fiber itself consists of a transparent or colored tube through which light (laser) passes at a high speed, the fiber itself is induced in isolation from other fibers located in the optical coupling, which also be in isolation. The optical couplings themselves are located around the power cable in various quantities depending on the number of fibers in the fiber-optic link, which is also in a denser insulation of a certain standard marked 4/72, where 4 is the number of optical modules, and 72 is the number of optical fibers in it, it also happens 4/64. During the construction of fiber-optic communication lines, cables marked 8, 16, 24, 32, 64, 72, 96 are used, which are used depending on the needs of the lines, while the optical fibers themselves always go of the same type in QCHOBHOMG 652 - 655, there are no differences in the fibers themselves. available only for the convenience of splicing these fibers. The transparent fiber function serves as a high-speed line, which carries a light signal 15 million times faster than a copper connection, and the thickness of the optical fiber does not in any way affect the quality and speed of communication services. Responsibilities for accounting for distributed optical fibers' (color, number, brand) located in the FOCL and drawing up schemes for their distribution are assigned to its section, in the process of welding in their organization on the Saratov - Ershov section, modules and fibers are numbered from the first colorless (unpainted ) of the module and further goes clockwise, as well as the optical fibers themselves - modular numbering (in accordance with the old cable passport). However,

as for the Ershov - Ozinki section, the FOCL purchased from the RetnNet CJSC organization was end-to-end numbering (in accordance with the new cable passport) starting from the blue module, then the numbering starts with the blue optical fiber and so on in the continuation of each module. In the course of work, when connecting and welding optical fibers, they are always welded according to a single color scheme. In the course of communication with employees, he became aware that the organization of JSC firm "SMUR" at the end of 2012. the optical fibers of the G.652 4/64 type were transferred, namely 4 optical fibers located in the colorless module No. 1 in which there are only 8 fibers, of which<sup>1 2</sup> 6 modules belong to other operators, which he does not remember anymore. Also, five more modules remained in the cable, of which 4 were 12 optical fibers and one 8 were fibers.

Were also transferred - 4 optical fibers - G.652 and 4/72 standard optical fiber on the Borisoglebsk-Rogachevka fiber-optic link section in Tellermanovsky settlement of the Gribanovsky district of the Voronezh region to Borisoglebsk. Later, as he knows, from the former employees there was some kind of conflict of interest, after which the relationship was terminated. Technical malfunctions in which the provision of communication services on the specified fiber-optic line were, in order to avoid penalties, were eliminated as soon as possible, there were never any lengthy outages. As he knows, a complete check of the entire FOCL route for compliance with optical fiber connections according to color schemes was not carried out. However, all telecom operators have always received their customers' telecom services in full without any complaints.

In February 2013. in the course of emergency recovery work by the organization of Firm SMUR JSC, it was established that the identifying signs of the optical fiber actually transferred to him for use do not correspond to the identifying signs that are indicated in the Statement of Transferred Property and in the Act of Acceptance and Transfer of Property for Temporary Use dated 10 October 2012, signed by the parties to the agreement LLC "Company ALSiTEK", namely, the couplings on the fiber-optic cable are made poorly: in the couplings, the module numbers are mixed up and do not fit one with the other. The couplings were made in violation of the technical requirements established by the legislation of the Russian Federation, as a result of it, water could be present in them as a result of improperly carried out repair and restoration work, which in no way affects the quality of the communication services supplied to consumers.

V.N. Vekozin, interrogated as a witness. testified that he has been working as a legal adviser in the organization LLC "Company ALSiTEK" since February 2015. Until now. With the available documentation in the organization, he knows that an agreement No. 3 / 12-12 of December 04, 2012 was concluded with Firm SMUR JSC. purchase and sale of optical fibers and a share in the right of common shared ownership in a fiber-optic communication line on the territory of the Voronezh and Saratov regions with a total value of 18,520,211.79 rubles, in fulfillment of obligations under which in three stages during a calendar year from the moment of its signing after make payments transfer optical fibers: 1. for temporary use; 2. ownership of stage 1 (FOCL section Ershov - Ozinki); ownership of stage 2 (FOCL section Saratov - Ershov). However, on the part of the JSC firm "SMUR", the contractual obligations in terms of payment were not fully fulfilled - the 3rd payment was not made, and thus, the ownership of the 2nd stage (the FOCL section Saratov - Ershov) was not acquired. In this regard, JSC firm "SMUR" made demands on our organization. However, by court decisions, they were found not consistent: A57-9276 / 2014; A14-2754 / 2014; A 14-8464 / 2015; A57-233 / 2017, currently arbitration courts are considering litigations in the framework of the case A57-1008 / 2019 (section Saratov - Ershov) and A14-1036 / 2017, He knows from the available documentation that the fiber-optic communication line at the section Ershov - Ozinki was built organization JSC "RetnNet", and the line Saratov - Ershov was built by several contractors - at least 4 for the money of LLC "Company ALSiTEK", for which there is executive and technical documentation. Further, 16 optical fibers on the Ershov - Ozinki section were purchased from JSC "RetnNet" under contract No. RN414 dated June 14, 2012. Four optical fibers from among these 16 optical fibers purchased from JSC "RetnNet" were sold by LLC "Company ALSiTEK" to CJSC firm "SMUR" under contract No. 3 / 12-12 of September 09, 2012, as part of the property under the first stage of this contract under an uncontested act of November 21, 2012, signed by the parties. RetnNet CJSC sold 2 more optical fibers on the same Ozinki-Ershov FOCL section to CJSC SMUR under contract No. RN437 dated June 14, 2012, which

is also confirmed by the acceptance certificate. Thus, CJSC "firm" SMUR "in the section Ershov - Ozinki owns 6 optical fibers - 4 optical fibers purchased from LLC "Company" ALS and TEK" and 2 optical fibers purchased from CJSC RetnNet. This fact indisputably proves the existence of optical fibers on the Ershov - Ozinki section, since the company "SMUR" CJSC did not file a statement of illegal actions against the management of CJSC "RetnNet" and did not challenge the agreement with them. In addition, the FOCL section Saratov - Ershov, 4 optical fibers in which were sold from LLC "Company" ALS and TEK "to CJSC firm" SMUR "as part of the property under stage 2 of the contract 3-12 / 12 dated 09.09.2012, was built at the expense of LLC "Company" ALS and TEK ". The design and construction of the Saratov - Ershov fiber-optic communication line was carried out by the general contractor LLC SMU Promsvyazmontazh under contract No. 17 dated 01.04.2011. The cable for this fiber-optic communication line was purchased on the basis of contract No. 017P / 2011 dated 03.06.2011 between LLC Company ALS and TEK "and CJSC" OFS SS No. 1 ", which is reflected in the invoices. The design and construction of the Saratov - Ershov - Ozinki fiber-optic communication line was started on April 1, 2011 on the basis of construction permits issued by the administrations of the Ershovskiy, Sovetskoy, Fedorovskiy and Engels districts of the Saratov region. This fiber-optic communication line was put into operation in 2012 on the basis of permits for the commissioning of facilities, issued by the Administrations of the Ershovskiy, Sovetskoy, Fedorovskiy and Engels districts of the Saratov region. Optical cable at the site of Saratov, st. Chernysheskiy, 153 - Saratov, st. B. Kazachya 6 - Engels Stroiteley Ave. -KK1216 (turn to the village of Awakening), before entering the ground was placed in the cable duct of OJSC Rostelecom on the basis of the contract for the provision of services for the provision of space in the cable duct No. 650000167742 dated 20.05 .2011, and additional agreement No. 1 of 2011 on the Saratov-Engels bridge, the cable was placed according to the technical specifications of the Committee for road transport construction and operation of roads in the Saratov region (letter No. 1530 dated July 24, 2009) by agreement with JSC " Volgamost "Mostootryad No. 8 (letter 1811/09 dated 21.07.2009) under an agreement with LLC STsTS No. 3/46-a dated 20.08.2009. The optical cable was brought into the premises of STSTS LLC at Integral LLC, Saratov, st. Chernyshevskiy, 153, as indicated in the letter of LLC "STsTS" No. 562 dated 08.10.2019. This premises are leased by OOO STsTS from OOO Investkomindustriya, Moscow under lease agreement 539 dated 01.08.2012. LLC "Investkomindustriya" Moscow rents this premises from LLC "Altura", and the latter rents it from LLC "Integral" as evidenced by the letter of LLC "Altura" No. 19 Ot 22.10.2019. These documents indisputably prove the existence of both the FOCL Saratov - Ershov itself, and the existence of 4 optical fibers in the Saratov - Ershov section.

During the litigation in the arbitration courts, he learned from the participants in the process and eyewitnesses who initially became participants in these relationships that JSC SMUR had requested only optical fibers in the Saratov-Ershov section from ALSiTEK Company LLC, since had optical fibers on the Ershov - Ozinki section. However, LLC "Company" ALSiTEK "sold optical fibers only along the entire route Saratov - Ershov - Ozinki. Having agreed with these conditions, the JSC firm "SMUR" signed on September 4, 2012, contract No. 3-12 / 12, but was not going to actually fulfill it. In his opinion, the purpose of the JSC "SMUR" was to obtain optical fibers in the Saratov - Ershov section for temporary use, so that for 2013 - 2014. build your own communication line and return unnecessary optical fibers to the seller, collecting the paid money. That is why JSC firm "SMUR" in every possible way delayed the payment of the first and second payments under the contract, did not make the third payment at all, and did not return the acceptance certificate signed by the seller. That is why the JSC firm "SMUR" sent to LLC "Company" ALSiTEK "in 2013 - 2014. a huge number of unfounded claims in order to create the appearance of a violation of this agreement 3 / 12-12 dated 09/04/2019 by the seller. JSC firm "SMUR" paid with a delay the first payment under the agreement 3 / 12-12 dated 09/04/2019, received these four optical fibers for temporary use under the act of October 10, 2012, checked them, paid the second payment with a long delay , and acquired the ownership of optical fibers under the first stage of the agreement under the act of November 21, 2012. Having received on November 21, 2012 in Saratov, two copies of the act of acceptance and transfer of property for the first stage, signed by ALSiTEK Company LLC, JSC firm "SMUR" brought them on November 22, 2012 in Voronezh to be signed by ND Torokhov, but ND Torokhov did not sign these acts and kept them, claiming that they were allegedly lost. However, this circumstance did not prevent

him the very next day, November 23, 2012, from handing over the property belonging to him under the first stage, and renting out the property that did not belong to him under the second stage in OJSC Kvant Telecom under contract No. A32-4732 / 12 of November 23, 2012, by transferring them under the act of November 26, 2012. According to the management of LLC "Company ALS and TEK", the calculation of P.D. Torokhov was simple - for 2013 - 2014. he intended to build his own communication line Saratov - Ershov, and then collect the amounts of the first and second payments paid to LLC "Company AJIC and TEK", since, having no acts of acceptance and transfer of property<sup>4</sup> signed by JSC "SMUR" "ALSiTEK" could not prove the fact of transfer of property under the first stage. As it was mentioned above, JSC "SMUR" already had two optical fibers on the section Ershov - Ozinki and therefore Torokhov N.D. 4 more optical fibers were not needed on the same section, and he intended to build the Saratov - Ershov section on his own. At the same time, Kvant Telecom continued to use the optical fibers obtained by SMUR JSC, as evidenced, in particular, by this fact, in case of short-term disconnection of optical fibers on February 6, 2013 on the Saratov - Ozinki section, General Director of OJSC Kvant Telecom A.N. Torokhov personally on February 7, 2013, brought to Saratov, signed by N.D. Torokhov. the act of acceptance and transfer of November 21, 2012, and immediately turned to the police of the city of Saratov with a statement on bringing to criminal responsibility the employees of LLC "Company" "ALSiTEK", indicating that communication services are provided through these fibers to operators of the Republic of Kazakhstan and due to the interruption of communication of OJSC Kvant Telecom bears big losses. This fact indisputably proves the existence of PI, the serviceability of four optical fibers received by JSC SMUR under contract No. 3 / 12-12 dated 04.09.2012 on the Saratov-Ozinki section, since it is obvious that communication services cannot be provided over non-existent or faulty fibers ... In the Arbitration Court, when considering cases A14-8464 / 2015 and A57-233 / 2017, the correspondence, existence, receipt and use of the property (4 optical fibers in FOCL Saratov - Ozinki) by JSC SMUR were established that meet the requirements of contract No. 3 / 12-12 dated 04.09.2012

The Supreme Court of the Russian Federation, the appeal and cassation instances in these cases indicated that JSC SMUR received and used four optical fibers under the agreement 3 / 12-12 dated September 04, 2019, and the differences in the cable brand, numbering and color of these optical fibers do not affect their consumer properties in any way and do not constitute any violation of this agreement. JSC firm "SMUR" actually did not fulfill its contractual obligations to LLC "Company" "ALSiTEK", as it did not make the last payment for stage 3, after which all the necessary documentation would be transferred (the section of FOCL Saratov - Ershov), allowing you to independently dispose of these fibers .

In case of making 3 payments (the last one) and signing the Act of transferring property into ownership at stage 2, if the facts of differences in the color marking of optical fibers were revealed, then according to additional contractual documents, these shortcomings would be eliminated, but the next (third) The company "SMUR" did not intend to make the payment, although initially they independently prepared the contract 3 / 12-12 and its annexes and indicated in them all the information, including color coding. Also, in a letter from JSC, the firm "SMUR" declared its desire to fulfill the Contract 3 / 12-12, but the payment was never made. I would also like to note that, in fact, the JSC firm "SMUR" did not return the specified fibers due to non-fulfillment of the contractual payment relationship. However, in fact, in the period from December 2012. to June 22, 2018 JSC firm "SMUR" did not pay for use of 4 OFs, in which they made a profit when providing services to their counterparties. FOCL on the Saratov - Ershov section, was sold in September 2018. under the contract of purchase and sale of the organization OOO DSPS (Saratov), which became the owner of the optical fibers previously transferred to the use of JSC firm SMUR.

The Ershov - Ozinki section complies with the terms of the contract 3 / 12-12, which was judged in the decisions of the Arbitration Courts (above), as for the FOCL Saratov - Ershov section, the contract with all annexes was drawn up by the JSC firm SMUR. According to the Act of Acceptance of Property for Temporary Use of October 10, 2012. JSC SMUR had no complaints either to the color or to the quality of optical fibers. The property received by JSC firm "SMUR"

under the Lease agreement was transferred to JSC "Quant-Telecom", which accepted these OV's and using them carried out Internet traffic through the border crossing of the state border of the Russian Federation - the Republic of Kazakhstan. At present, it is impossible to determine the optical cable in the Saratov-Ershov section from OM to OM or not, because for almost 6 years JSC firm "SMUR" illegally owned 4 OV. And at present, these OV's are owned by a third party LLC "DSPS" and what kind of work they carried out is not known. In addition, DSPS LLC rents out these optical fibers to third parties who could also carry out work on the replacement of optical fiber in this direction.

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According to the conclusions of the expert No. 015-P-ANO dated January 22, 2019. according to the conclusion of the forensic technical examination, it was established that 'at the studied points of coordinates on the route of the fiber-optic communication line Saratov - Ershov there are differences in the marking of the cable specified in the contract No. 3 / 12-12 for the sale of optical fibers and shares in optical communication line on the territory of the Saratov region concluded on September 10, 2012, as the contract specifies a cable of the DKP-7-7-6 / 64 brand, in fact during the study period in December 2018. cables of DKP-7-7-6 / 64 (32 + 32), SP-1.5-7-6-6 / 64 (32 + 32), OGD 1x12S / 5x12A-7, OKS-M8T-Yu- at several points of coordinates, as well as differences in the color marking of optical lines in the connections (couplings) specified in the contract, located in the FOCL on the Ershov - Ozinki section. Optical fibers "5 gray, 6 white, 7 red, 8 black" in the module "No.1 unpainted", alienated by LLC "Company" ALSiTEK "in fiber optic communication line" Saratov - Ozinki "in the section from Saratov to Ershov in accordance with Contract No. 3 / 12-12 of September 10, 2012, in the actually laid cable of the DKP-7-7-6 / 64 (32 + 32) brand, there are no fiber-optic cables on this section due to the absence of the section from Saratov to .Ershov cable of the DKP-7-6-6 / 64 brand specified in the contract. FOCL line "Saratov-Ozinki" in the section from

the city of Saratov to the city of Ershov is laid directly into the ground, in the section from the city of Ershov to the urban-type settlement The Ozinki communication line is laid in a cable duct - in a protective polyethylene pipe. Due to the lack of information "about its seller's accounting system" at JSC "Firm" SMUR ", in the course of an expert study, in the actually existing FOCL, alienable optical fibers" 5 gray, 6 white, 7 red, 8 black "in the module" No. 1 unpainted " does not seem impossible.

In accordance with the written explanations of I.I. Salimov, presented at the request of the latter, in which he explained that the fiber-optic communication line provided by JSC "Firm" SMUR "in 2012. on the basis of the contractual relationship was in working order, the optical fibers provided to their organization were used by them for their intended purpose, to make a profit in the provision of communication services. At the same time, there were no criminal and legal violations on his part, and on the part of Firm SMUR JSC, the contractual obligations were not fully fulfilled (the 3rd stage of the contract was not completed - the transfer of funds for the right of ownership, previously transferred to the use of optical fibers FOCL Saratov - Ershov), which subsequently led to mutual claims and arbitration proceedings.

Thus, in the course of the preliminary investigation, a set of direct and indirect evidence was not obtained, allowing, within the framework of the investigation of this criminal case, to qualify the actions of the founder and director of LLC "Company ALSiTEK" I.I. Salimov for the period 2012-2013. on the grounds of a crime under Part 6 of Art. 159 of the Criminal Code of the Russian Federation - fraud associated with deliberate failure to fulfill contractual obligations in the field of entrepreneurial activity, if this act caused significant damage.

The objective side of fraud, as a crime, consists in the theft of someone else's property or the acquisition of rights to it by deception or abuse of trust, it will be considered completed from the moment the guilty person has a legally secured opportunity to dispose of someone else's property as his own from the time of the conclusion of the contract. However, the investigation found that in the actions of the founder and director of LLC "Company ALSiTEK" Salimov I.A.N.D. when concluding this agreement No. 3 / 12-12 dated September 4, 2012 on the transfer of optical fibers

and a share in the right of common shared ownership in a fiber-optic communication line in the Voronezh and Saratov regions, this feature is absent. In view of the fact that in the third stage of the said agreement, the contractual obligations were fulfilled by ALSiTEK Company LLC, that is, the optical fibers were transferred under two stages of the agreement both to the ownership and use of SMUR JSC, which forms a subjective side and testifies to the absence of direct intent and selfish goals Salimova I.AND. when signing a contractual relationship on the part of LLC "Company ALSiTEK". At the same time, on the part of JSC "SMUR" within the framework of the contractual relationship, payment for the third stage of the contract was not carried out, respectively, the transfer of documentation on the ownership of optical fibers located in the FOCL to Saratov section

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- Ershov did not take place, in this connection, the ownership of this site remained with LLC "Company ALSiTEK". Thus, this led to a mutual violation of the phased fulfillment of contractual obligations by both parties to the contract. That is, it is obvious that between JSC firm "SMUR", on the one hand, and LLC "Company ALSiTEK", on the other hand, have developed stable civil - legal relations, which entailed further termination of the contract as a result of non-compliance by the parties with its conditions during the validity period.

At the same time, objectively, the investigation did not establish circumstances that could indicate the commission of fraud - that is, theft by deception or abuse of trust aimed at the illegal seizure of someone else's property and obtaining a real opportunity to dispose of the property at its own discretion from I.I. Salimov. as the head of ALSiTEK Company LLC. At the same time, a real opportunity with full control over the property and recourse to one's own benefit is actually established by the organization of JSC SMUR, which received the right to use when making the first payment, entered into a lease agreement for JSC Kvant-Telecom, which accepted these OV and using them carried out Internet traffic through the border crossing of the state border of the Russian Federation - the Republic of Kazakhstan, while making a profit, but did not make the last third payment under contract No. 3 / 12-12 dated September 04, 2012, and therefore could not acquire ownership on the subject of the contract.

In addition, during the preliminary investigation, no causal relationship was established between the actions of I.I. Salimov, aimed at any fraudulent actions on deliberate failure to fulfill contractual obligations in the field of entrepreneurial activity, under contract No. 3 / 12-12 dated September 04 2012 on the transfer of optical fibers and a share in the right of common shared ownership in a fiber-optic communication line in the Voronezh and Saratov regions and the ensuing consequences.

These financial and economic relations between LLC "Company" ALSiTEK "and JSC" Firm "SMUR" are regulated between two business entities, regulated by civil legislation in accordance with Article 2 of the Civil Code of the Russian Federation. - Arising disputes are settled in a claim procedure, or in Arbitration courts.

Taking into account the above circumstances established during the preliminary investigation, it should be concluded that between

The seller of the fiber-optic line by the organization LLC "Company" ALS and TEK "and the buyer of the optical lines of the JSC firm" SMUR "have developed relations regulated by contractual obligations and the provisions of the civil legislation of the Russian Federation, which indicates the absence of corpus delicti associated with theft of funds and the presence of civil law relations arising from the agreement No. 3 / 12-12 dated September 4, 2012 for the sale and purchase of optical fibers and a share in the right of common share ownership in a fiber-optic communication line in the Voronezh and Saratov regions.

The above circumstances are considered within the framework of civil - legal relationships that do not fall under the criminal legislation of the Russian Federation on the qualifying signs of a crime under Art. 159 of the Criminal Code of the Russian Federation, in view of the fact that

the objective side of the crime consists of selfish intent in stealing someone else's property or acquiring the right to it by deception or abuse of trust, as well as deliberate non-fulfillment: contractual obligations in the field of entrepreneurial activity when concluding a specified agreement, which is not seen in actions of the founder and director of LLC "Company" ALS and TEK "II Salimov when signing the contract No. 3 / 12-12 dated September 04, 2012 and further fulfillment of obligations under it.

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In addition, in the course of the investigation of the criminal case, sufficient grounds were not obtained for the application of qualifying signs to the actions of the founder and director of LLC "Company ALS and TEK" Salimov I.I. in 2012. on the grounds of a crime under Art. 201 of the Criminal Code of the Russian Federation, that is, the use by a person performing managerial functions in a commercial or other organization of their powers contrary to the legitimate interests of this organization and in order to derive benefits and advantages for themselves or others, or harm others, if this act entailed causing significant harm the rights and legitimate interests of citizens or organizations, or the interests of society or the state protected by law. The view that the actions of the founder and director of LLC "Company" ALS and TEK "Salimov I.I. were carried out legally in accordance with the charter of the organization LLC "Company" ALS and TEK "on the implementation of previously concluded contractual relations with counterparties and profit of the Company.

The evidence collected in the case does not give grounds for the involvement of the founder and director of LLC "Company" ALS and TEK "Salimov II. in 2012. to criminal liability, due to the absence of corpus delicti in his actions, in which there is criminal liability on the grounds of a crime under Art. 159 and 201 of the Criminal Code of Russian Federation. Thus, in the actions of the founder and director of LLC "Company" ALS and TEK "Salimov I.I., there are no signs of corpus delicti under Art. 159 and 201 of the Criminal Code of the Russian Federation,

In connection with the above circumstances, the criminal case against the founder and director of AJIC and TEK Company LLC Salimov I.I. on the fact of deliberate failure to fulfill the contractual obligations of ALSiTEK Company LLC to SMUR JSC under contract No. 3/12 - 12 of September 04, 2012 on the transfer of property without intending to execute it, which stole the Company's funds in the amount of 10,926,924 rubles, is subject to termination due to the absence of the indicated corpus delicti in its actions on the grounds provided for in paragraph 2 of part 1 of Art. 24 of the Criminal Procedure Code of the Russian Federation.

In addition, in the actions of the victim Torokhov N.D. there are no signs of corpus delicti under Article 306 of the Criminal Procedure Code of the Russian Federation.

Based on the aforesaid and guided by Article. 212 and 213 of the Criminal Procedure Code of the Russian Federation,

sentenced:

1. To terminate the criminal case No. 11701630001000127, initiated on the basis of a crime under Art. 159 of the Criminal Code of the Russian Federation, due to the lack of corpus delicti under Art. 159 and 201 of the Criminal Code of the Russian Federation on the basis provided for in paragraph 2 of part 1 of Art. 24 of the Criminal Procedure Code of the Russian Federation.
2. Material evidence - documents seized during the preliminary investigation, to be stored with the materials of the criminal case.
3. A copy of this decision to the victim ND Torokhov. hand over.
4. Explain to the victim the right to file a claim in civil proceedings.

This decision may be appealed to the head of the investigative body, the prosecutor or the court in the manner prescribed by Chapter 16 of the Criminal Procedure Code of the Russian Federation.

Investigator

A copy of this decision was sent on December 11, 2019 to the prosecutor of the city of Saratov.

Investigator