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Features of interaction between law enforcement agencies during the investigation of criminal offenses according to international standards

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Abstract

The purpose of the research was to highlight the interaction between law enforcement agencies during the investigation of crimes in accordance with international standards. It also highlights the main areas of cooperation between law enforcement agencies in different States during the investigation of criminal offenses. Taking into account the great public danger of criminal offenses, it is worth noting that they have long since acquired a transnational character and it is therefore interesting to pay special attention to the issue of cooperation between the National Police of Ukraine and various international police organizations in the investigation of this category of criminal offenses. The methodological basis of the research is presented as comparative-legal and systematic analysis, formal-legal method, method of interpretation, hermeneutic method, as well as methods of analysis and synthesis. Among the main conclusions, it draws attention to the necessity of the issue of strengthening cooperation between the operational units of the National Police of Ukraine engaged in the fight against criminal offenses and international police bodies engaged in operational and investigative activities, as a condition of possibility to combat crime in all its manifestations.

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Keywords: international cooperation; criminal offenses; police investigations; international standards; law enforcement agencies.

Características de la interacción entre los órganos de aplicación de la ley durante la investigación de delitos penales según las normas internacionales

Resumen

El propósito de la investigación fue resaltar la interacción entre los organismos encargados de hacer cumplir la ley durante la investigación de delitos, de conformidad con las normas internacionales. Se destacan además las principales áreas de cooperación entre los organismos encargados de hacer cumplir la ley en diferentes Estados, durante la investigación de delitos penales. Teniendo en cuenta el gran peligro público de los delitos penales, vale la pena señalar que hace tiempo que adquirieron un carácter transnacional e interesa, por lo tanto, prestar especial atención a la cuestión de la cooperación entre la Policía Nacional de Ucrania y las diversas organizaciones internacionales policiales en la investigación de esta categoría de delitos penales. La base metodológica de la investigación se presenta como análisis comparativo-legal y sistemático, método formal-legal, método de interpretación, método hermenéutico, así como métodos de análisis y síntesis. Entre las principales conclusiones, llama la atención la necesidad de la cuestión de fortalecer la cooperación entre las unidades operativas de la Policía Nacional de Ucrania que se ocupan de la lucha contra los delitos penales y los cuerpos policiales internacionales que realizan actividades operativas y de investigación, como condición de posibilidad para combatir el delito en todas sus manifestaciones.

Palabras clave: cooperación internacional; delitos penales; investigaciones policiales; estándares internacionales; cuerpos de seguridad.

Introduction

The current state of crimes is characterized by a steady increase in the number of criminal offenses that belong to the category of latent ones. The vast majority of these offenses are committed by persistent criminal groups or “professional” criminals; they are carefully planned and characterized by a high degree of organization and technical equipment.

When preparing for practical implementation of a criminal plan, criminals develop in detail various options for hiding traces of their illegal encroachments, and during investigation, they look for opportunities to send the investigation in the wrong direction and provide organized countermeasures.

It is also important that information about the investigated illegal event in the vast majority of cases does not lie on the surface; it does not come to the disposal of law enforcement agencies in a haphazard manner through previously known channels.

Thus, the practical significance of the interaction of the investigator with operative workers is that procedural activities without the use of non-procedural methods would be impossible, and operational investigative activities without further use of its results in the criminal process are pointless (Yefimov *et al.*, 2022).

1. Literature review

Many works of domestic and foreign scientists are devoted to the theoretical and practical issues of interaction between investigative units of the National Police of Ukraine and law enforcement bodies of other countries during investigation of criminal offenses.

The mechanism of interaction of the investigator with the bodies that carry out operational and search activities should be based on the observance of a system of principles that ensure timely and effective resolution of tasks set before them.

In our opinion, the following principles are among the fundamental ones: legality; respect and observance of rights and freedoms of humans and citizens; humanism; relevance of the results of interaction to the investigation of a specific criminal act; combination of individual and collective operation; clear differentiation of competence of each of the interacting parties; continuity of interaction throughout the investigation; interests of the parties in achieving the set goal; timely exchange of information between subjects of interaction about known circumstances that may be important for the investigation; non-disclosure by the parties of operational and search information and investigative information, as well as taking measures to ensure preservation of such information.

Practice shows that non-compliance with these principles leads to errors, which can be subdivided into errors of a procedural nature, epistemological errors (logical and actual ones) and effective (operational) errors (Bielkin, 1988).

While procedural errors are associated with a deviation from requirements of the current legislation, logical errors are connected with violations of laws and rules of logic in meaningful processes, incorrect application of logical techniques and operations, and such errors depend mainly on the way of thinking of investigative and operative employees as well as on their actions (Yefimov *et al.*, 2021).

In turn, actual errors are related to unreliability and incompleteness of operational and search data which prior to being applied must be thoroughly checked and compared with already available materials. As for effective (operational) errors, they are usually associated with improper organization and planning of anticipated investigative (search) and procedural actions, based on results of operational and investigative activities being an informative component.

However, the analysis of scientific researches has shown that this issue is rather urgent today and requires more global research. Relevance, practical significance, insufficient research of the indicated issues led to the choice of the topic of the article and determined its purpose (Yefimov, 2022).

Methodology of the article is a study of interaction during investigation of criminal offenses by the National Police of Ukraine in cooperation with law enforcement bodies of other countries

Thus, the article is aimed at studying interaction of law enforcement bodies during investigation of criminal offenses in accordance with international standards.

2. Materials and methods

The research is based on the works of foreign and Ukrainian researchers on methodological approaches of understanding principles of law as a universal normative framework.

The essence of methodological approaches of understanding universal human principles of law as a universal normative framework was determined by the use of the gnoseological method; the conceptual apparatus was deepened and the essence of concepts of universal human principles of law as a universal normative framework was defined thanks to the logic-semantic method.

Constituent elements of methodological approaches to understanding universal human principles of law as a universal normative framework were investigated by means of using the system-structural method. The structural-logical method was used to define the basic directions for optimization of methodological approaches to understanding universal human principles of law as a universal normative framework.

3. Results and discussion

As the analysis of investigative practice shows, joint activities of the investigator and operatives at the initial stage of the investigation are usually carried out in the absence of complete information about circumstances of the respective criminal offense committed as well as in limitation of time, due to the possibility on the part of criminals to hide traces of their illegal acts, destroy documents and other information carriers.

The specified circumstances determine the search-and-reconnaissance nature of such activities, their focus on checking actual data possessed by the investigative bodies and obtaining additional information in order to eliminate information uncertainty. This involves, in particular, obtaining information about locations of hidden documents and property acquired through crime; establishing circumstances characterizing identity of the suspects and the most important potential witnesses; identification of persons who have information about the criminal offense and can testify about it.

Along with this, from the very beginning of a certain investigation, an extremely important direction for interaction of the mentioned subjects consists in coordination of their activities aimed at stopping, neutralizing and eliminating possible attempts of illegal interference of interested parties, including by means of implementing coercive measures provided for by law.

As for the next stages of investigation, the main attention of persons, who carry out operational and investigative activities, is usually focused on identifying new episodes of illegal activity, establishing the circle of persons involved in the crime as fully as possible as well as on establishing connections between them and creating conditions for carrying out and ensuring effectiveness of investigative (search) actions.

However, during the entire pre-trial investigation, activities performed by employees empowered to carry out operational and investigative activities as well as those performed by the investigator should be complementary in order to avoid unnecessary duplication of work. In contrast, a lack of proper interaction has a negative impact on the course of the respective investigation.

The above provides grounds for concluding that the main conditions ensuring coordinated activity of the named persons include the following: 1) joint planning of investigative (search) and other procedural actions and operational and investigative measures or coordination of separate plans available to the investigator and the operational worker in order to ensure coordination of actions and clear differentiation of responsibilities in the process of joint work; 2) mutual and timely exchange of information in the

process of developing versions and their verification; 3) joint analysis of the investigative situation, consisting of data collected during the proceedings, obtained in the process of carrying out the specified actions and measures, and, if necessary, further adjustment of the plan (plans); 4) discussion of decisions on implementation of investigative (search) actions and possible tactical techniques which are the most appropriate to be used (Halaburda *et al.*, 2021).

The legal literature has repeatedly stated that investigators are extremely rarely involved in getting acquainted with materials of operational developments. As a result, a number of authors consider it expedient to legislate the right of the investigator to get familiarized with operational and official documents related to investigated criminal proceedings and presented in the respective proceedings (Villasmil Espinoza *et al.*, 2022).

Since investigation of criminal offenses under review is in the majority of cases combined with a significant amount of pre-trial work and the necessity of simultaneous investigation (search) actions as well as operational and investigative measures, the prerequisite for an effective pre-trial investigation consists in timely creation of investigation teams. Timeliness of their creation depends on two interrelated conditions. The first condition is to identify circumstances that indicate the need to create an investigation team in a timely manner. The second condition is characterized by the shortest possible periods needed for organization of such teams.

The need to establish an investigation team at the beginning of an investigative process usually arises in the event of initiating a pre-trial investigation based on the materials of the prompt verification of information about persons who are preparing, committing or have committed the crime.

This is due to the fact that even before the start of investigation, the mentioned materials contain information about persons who committed the crime, places of possible hiding of documents and objects relevant to the proceedings, as well as money and other property obtained through criminal means. As a result, a real opportunity is provided to plan, coordinate and get prepared for the entire complex of necessary investigative (search) actions and operational search measures in advance.

Regarding the next stages of the investigation, the need to create an investigation team most often arises after receiving certain actual data indicating that the respective criminal offense was committed by a criminal group (which, for example, is typical for such acts as legalization (laundering) of funds or other property obtained through criminal means by others persons or purchased by the person himself/herself, embezzlement using payment cards, securities, as well as by means of illegally presenting a claim for reimbursement of value added tax, manufacturing or selling counterfeit securities and plastic cards, etc.) or after it is established that the suspect (accused person) committed not one, but several criminal offenses.

As for the distribution of responsibilities among members of the investigation team, it depends on both conditions under which the investigation is conducted and the situation under investigation. The most optimal option, as practice shows, is to allocate independent areas of work to investigators and operative workers. Grounds for the latter's allocation may also be different, for example, in relation to the verification of the proposed versions, in relation to specific suspects or business entities or specific episodes of illegal activities.

The data obtained as a result of operational search activities can be both indicative and contain forensically significant information (Leheza *et al.*, 2022).

Results of operational search activities of a guiding value are quite diverse in terms of their content. These may be data on methods of preparation, commission and concealment of a criminal offense; on composition of the criminal group; objects and documents that can be evidence in the proceedings; on persons who may be questioned as witnesses; on relationships and connections of the persons involved in the proceedings; on the line of conduct chosen by the suspect during the investigation; on attempts made by criminals to influence witnesses and accomplices in order to give false testimony (Matviichuk *et al.*, 2022).

Using targeted operational information, the investigator can:

- predict the most probable places of hiding documents and objects, which may be important for proceedings, possible attempts of their destruction or changing places of storage; forecast location of money and other property obtained by criminal means;
- predict behavior of witnesses and the suspect. In particular, their possible reaction to the very fact of the start of a pre-trial investigation can be predicted (for example, to the fact of providing organized opposition to the investigation), to conducting this or that investigative action (for example, a search) or to certain questions in the process of interrogation (Tylchyk *et al.*, 2022).

Taking into account the great public danger of criminal offenses, it is worth noting that they have long acquired a transnational nature, and it is worth focusing special attention on the issue of cooperation between the National Police of Ukraine and international organizations on investigation of this category of criminal offenses. This fact is confirmed by Yu. Chornous in his scientific work, the author notes that:

In the context of combating organized interregional crime, special relevance is acquired by issues of interaction of police units with other units, law enforcement bodies of Ukraine and international law enforcement bodies, state institutions and organizations, non-state institutions, enterprises, as well as organizations dealing in exchange of operational search information (2012: 235).

Moving on to the issue of interaction between the National Police and international organizations regarding investigation of criminal offenses, it is worth noting what “interaction” actually means. We fully support the position of Topchii and Horbachevskyi, who note that it is:

Coordinated, based on the tasks of criminal proceedings, complex (procedural and operative investigation) actions performed by criminal procedural activity subjects whose purpose to reveal, investigate and prevent criminal offenses, to bring to justice guilty persons only on the grounds specified by the norms of criminal procedural law, and other criminal acts; such actions are carried out at strict delineation of their competence, within the limits of the given powers, by means of the most effective combination of measures allowed for them and corresponding material support while preserving the secret of pre-trial investigation and sources of confidential information (*Topchii and Horbachevskyi, 2013: 128*).

Having analyzed various opinions of Ukrainian and foreign scientists, it is possible to formulate an author’s definition concerning interaction of the National Police of Ukraine with law enforcement bodies of foreign states, as regards investigation of criminal offenses in the sphere of banking activity. Therefore, the mentioned type of interaction should be understood as defined by the current legislation and a clearly planned set of defined complementary measures, including those of an informational nature, aimed at identifying persons who have committed the respective criminal offense in the sphere of banking, as well as gathering information that will have evidentiary value in the proceedings, while using capabilities of foreign authorities (and non-governmental structures), law enforcement bodies and international organizations.

The instruction on organization of activities performed by pre-trial investigation bodies of the National Police of Ukraine (Law of Ukraine, 2017) defines the following ways of ensuring organized interaction of investigative units of NPU with other pre-trial investigation bodies of the NPU in countering criminal offenses in the sphere of banking activity:

- “complex use of the forces and means of all police departments during pre-trial investigation of criminal offenses in the sphere of banking activity;
- creation of investigative-operational teams for a comprehensive, complete and impartial investigation of the circumstances of criminal proceedings for criminal offenses, such teams should include employees of operational and other units of the National Police, and, if necessary, those of
- interdepartmental investigative-operational teams;
- effective control over timely and complete conduct orders given by investigators to operational units concerning implementation of clandestine or official investigative actions;

- qualitative preparation of materials on problematic issues of the pre-trial investigation bodies in investigation of criminal offenses and their discussion by collegiums (at meetings) of the Ministry of Internal Affairs, the NPU, the Main Directorate of the National Police, as well as by joint boards and at meetings with other law-enforcement and state bodies and making concrete and effective management decisions” (Law of Ukraine, 2017).

In the current Criminal Procedure Code of Ukraine in Section IX “International cooperation during criminal proceedings” considerable attention is paid to the problems of international cooperation in combating crime (Law of Ukraine, 2012). In particular, after analyzing the norms of this section, it is possible to determine the following main directions of international interaction: a) Chapter 43 defines provisions of international legal assistance when conducting procedural actions; b) Chapter 44 defines the procedure for extradition of persons who have committed a criminal offense; c) Chapter 45 defines provisions of criminal proceedings in the order of adoption; d) and Chapter 46 defines the concept of recognition and execution of judgments of foreign courts and the transfer of convicted persons (Law of Ukraine, 2012).

Article 542 of the CPC of Ukraine defines the scope of international cooperation during criminal proceedings: “international cooperation in criminal proceedings shall be the taking of measures necessary in order to provide international legal assistance through serving documents, conducting certain procedural actions, extradition of individuals who have committed criminal offenses, provisional transfer of persons, taking over of criminal prosecution, transfer of sentenced persons, and execution of sentences. An international treaty of Ukraine may provide for other forms of cooperation in criminal proceedings than those specified in this Code (Law of Ukraine, 2012).

The Department of International Cooperation and European Integration of the Ministry of Internal Affairs implements the powers vested in the Ministry of Internal Affairs regarding creation of state policy on international cooperation issues, as well as monitoring of implementation of state policy on international cooperation issues by constituent elements of the Ministry of Internal Affairs apparatus. Cooperation of crime combating operational units in relation to morality with investigative bodies of foreign countries is implemented by the International Police Cooperation Department of the National Police of Ukraine.

An important problem in overcoming criminal offenses consists in regulation and maintenance of cooperation relations with various organizations of an international nature, which do not belong to law enforcement bodies, but which, as a result of the peculiarities of their work, may be connected with implementation of law enforcement activities,

including provision of assistance to individuals by means of performing return of monetary resources and compensation for caused damages.

The issue of cooperation of operational units for protection of the economy of the National Police in combating criminal offenses in the banking sector with foreign law enforcement bodies in the sphere of operational and investigative activities is carried out on the basis of Art. 5-1 of the Law of Ukraine “On Operational-Investigative Activity” (Law of Ukraine, 1992) and the Section IX of the CPC of Ukraine (Law of Ukraine, 1992). Thus, cooperation is carried out in the following forms:

- exchange of operationally significant, forensic information and other data about criminal offenses being prepared or committed, about persons involved in such offenses and persons who are wanted, as well as exchange of archival information on the specified issues;
- fulfillment of requests and orders concerning clandestine investigative actions;
- mutual assistance in carrying out clandestine investigative actions, joint execution of special operations;
- Exchange of experience on issues concerning operational and search activities, assistance in training, retraining and upgrading of staff qualifications;
- interdepartmental scientific research on the problem of operational and search activities (Bondar, 2020).

Conclusions

Thus, the study of the problem of cooperation between investigation units of the National Police of Ukraine and investigation bodies of foreign countries in the investigation of criminal offenses gives grounds to make certain conclusions.

The first conclusion is that combating investigated criminal offenses requires involvement of a large number of participants in implementation of specified measures, the list of these participants is established depending on the specific case, and usually on powers of specified subjects.

The second conclusion is that when combating criminal offenses in the banking sector at the state level, it is necessary to develop an effective interaction between the highest legislative body of power and the President of Ukraine, since it is they who initiate and develop political direction of the state in the sphere of protecting operation of banking structures by means of a body of executive power as the body that ensures implementation of the

state policy in the specified sphere, and of course by means of the Ministry of Internal Affairs of Ukraine, the National Police of Ukraine as bodies controlling undisputed implementation of legislative prescriptions in the specified sphere.

Thirdly, cooperation of investigation units with investigation bodies of foreign countries is organized by the Department of International Cooperation and European Integration of the Ministry of Internal Affairs as well as by the International Police Cooperation Department of the National Police of Ukraine.

In the case of the mentioned interaction, mutual exchange of information resources is carried out regarding criminal offenses in the banking sphere, as well as assistance in conduct of clandestine investigative (search) actions, as well as joint scientific research activities. Ukraine is a member of Interpol and it has concluded an agreement on procedural and strategic cooperation with Europol, which is the basis for the use of capacities of the mentioned organizations in the sphere of investigating criminal offenses at the international level.

In the fourth conclusion, it should be noted that interaction of the National Police of Ukraine with international organizations takes place at the global level as well as at the regional level. The best results are manifested in the process of cooperation between law enforcement bodies of Ukraine and the Working Apparatus of the Ukrburo of Interpol, the purpose of which consists in exchange of information resources, establishment of persons, things and documents recorded in the Interpol databases; assistance in the international search for criminals; implementation of extradition measures; implementation of procedural actions at the international level.

These types of cooperation have also criminalistic directions. This refers to the information component that characterizes investigated criminal offenses and helps in their disclosure. Similarly persons, objects and documents registered in the Interpol database are also related to criminalistics, because here forensic methods of diagnosis and identification are used, as well as various areas of forensic techniques.

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