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PREVENTION, DETECTION AND INVESTIGATION OF CRIMINAL OFFENSES AS A DIRECTION OF LAW ENFORCEMENT ACTIVITY: THEORETICAL AND LEGAL ISSUES

It is determined that the detection and investigation of offenses is a type of law enforcement activity. The concept of “law enforcement activity” is considered, which is understood as the activity of specially authorized bodies to protect the rights and freedoms of citizens, law and order and ensure the rule of law, which is implemented in the form established by law and within the powers granted to these bodies. It is determined that the detection and investigation of offenses is carried out in the form of an inquiry, pre-trial investigation and operational-search activities. The legal principles, concepts and content of law enforcement activities for the detection and investigation of criminal offenses are disclosed. The procedure for the detection and investigation of criminal offenses in Ukraine is studied. Pre-trial investigation of criminal offenses (inquiry) is carried out in accordance with the general rules of pre-trial investigation provided for by the Criminal Procedure Code of Ukraine. The completion of the pre-trial investigation of criminal offenses is carried out in accordance with the general rules stipulated by the Criminal Procedure Code of Ukraine, taking into account the features stipulated by Article 301 of the Criminal Procedure Code of Ukraine. It is proposed to bring the Criminal Procedure Code, the Laws of Ukraine “On the Prosecutor’s Office”, “On Operational and Investigative Activities” into line with the requirements of the Constitution of Ukraine (regarding the new functions of the prosecutor’s office). It is proposed to review the function of prosecution by the investigator, since the current CPC of Ukraine’s imposition on the investigator of the obligation to perform the general procedural function of prosecution is a gross mistake of the legislator. To make amendments to the CPC of Ukraine, in particular, to stop illegal activities aimed at further destroying the prosecutor’s office and law and order through direct intervention by foreign states and their representatives in the selection and placement of personnel in the prosecutor’s office, pre-trial investigation bodies and courts, which contradicts the Fundamental Law of Ukraine; to introduce the latest technologies and innovations into law enforcement

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activities. The development and use of automated investigator workstations (Insight investigator workstation), forensic experts workstations of various expert specialties (tracer workstation, ballistics workstation, economist workstation, phonoscopist workstation, intellectual property object research workstation, etc.) in the investigation of crimes is noteworthy.

Key words: *prevention, detection, investigation, criminal offenses, pre-trial investigation, law enforcement activities.*

Problem statement. The detection and investigation of criminal offenses is an indispensable part of the law enforcement activity of the state, creating safe conditions for the life of citizens. Reducing crime is a pressing problem of today, which causes an urgent need to study the features of the detection and investigation of criminal offenses to increase the efficiency of law enforcement agencies. The most dangerous violations of the law for society are criminal offenses, therefore combating crime becomes an important component of law enforcement activities.

Analysis of recent research and publications. Issues related to law enforcement activities and the legal status of law enforcement agencies have been and are in the focus of attention of legal scholars, representatives of theoretical and legal science, public administration science, administrative and constitutional law of Ukraine, and other branch sciences. In particular, the above-mentioned issues were comprehensively developed by O. Bandurka, V. Bezchasny, V. Bilous, V. Galunko, Yu. Zagumenna, R. Kalyuzhny, V. Kolpakov, A. Komzyuk, A. Kuchuk, O. Martynenko, M. Melnyk, T. Pikulya, V. Plishkin, V. Seryogin, V. Tatsii, P. Khamula, Yu. Shemshuchenko and others. Thanks to the efforts of these and other scientists, a methodology and scientific approaches to the study of law enforcement agencies have been developed, a conceptual apparatus has been formed, and the role and place of law enforcement agencies in the system of public authorities have been substantiated. At the same time, many theoretical issues in this area remain debatable.

The problems of in absentia consideration of criminal offenses have been studied by such representatives of the legal science of criminal procedure as: D. Arabuli, S. Holovaty, O. Zakharchenko, V. Malyarenko, G. Matviyevska, O. Kuchynska, L. Loboyko, V. Trofymenko, A. Tukiyeu, S. Sharenko, O. Shylo.

Scientists studied the issues of criminal offenses in terms of prevention, detection, and investigation in the pre-war period, but this issue was not studied during wartime, which makes this study relevant.

The purpose of the article is law enforcement activities to detect and investigate criminal offenses, legal norms that establish the subjects of this activity and the procedure for its implementation.

Presentation of the main material. Law enforcement is the activity of all state bodies and non-state organizations to ensure compliance with the rights and freedoms of citizens, their implementation, ensuring legality and law and order; in a narrow sense, it is the activity of specially authorized bodies to protect the rights and freedoms of citizens, law and order and ensuring legality, which is implemented in the form established by law and within the powers granted to these bodies [1, p. 121].

Characteristics of law enforcement:

1. Law enforcement is of an authoritative nature, which consists in the implementation on behalf of the state and on the basis of the powers granted by it, by relevant bodies and officials, their instructions are mandatory for the addressees.

2. Law enforcement is not implemented in any order, not in any way, but only with the application of legal measures of influence on offenders in the established form.

3. Law enforcement is of a law enforcement nature, new legal norms are not adopted, but already existing ones are applied. The actions and results of the actions of law enforcement entities are directed at other legal entities, creating, changing or terminating their rights and obligations

4. The implementation of law enforcement activities is entrusted to specially authorized bodies, which, to perform law enforcement functions, the state provides with funds and material resources [1, p. 123].

The directions of law enforcement activities are a reflection of the internal policy of the state, the implementation of which, according to the Constitution, is entrusted to the Cabinet of Ministers of Ukraine.

Scientists emphasize that such activities for most bodies are secondary in nature, not primary, and consist mainly in ensuring the performance of their organizational and managerial functions in the field of economy, finance, science, education, etc.

The content of criminal law protection is the fight against crime (a set of measures carried out by judicial and law enforcement agencies in accordance with the norms of the Criminal Procedure Code of Ukraine and the Law of Ukraine "On Criminal Procedure" and other regulatory legal acts that regulate the activities of judicial and law enforcement agencies specified in the above-mentioned laws).

Disclosure and investigation is one of the types of law enforcement activities, which consists in collecting, researching, evaluating, verifying and using evidence in order to prevent, prevent and uncover crimes, establish the objective truth, ensure the correct application of the law, and ends with the issuance of a law enforcement act based on its consequences [2, p. 98].

The main regulatory legal acts regulating the detection and investigation of criminal offenses are: the Criminal Procedure Code of Ukraine, the Law of Ukraine dated 22.11.2018 № 2617-VIII "On Amendments to Certain Legislative Acts of Ukraine on Simplifying Pre-Trial Investigation of Certain Categories of Criminal Offenses", the Law of Ukraine dated 17.06.2020 № 720-IX "On Amendments to Certain Legislative Acts of Ukraine in Connection with the Adoption of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Simplifying Pre-Trial Investigation of Certain Categories of Criminal Offenses".

Detection and investigation are carried out in the form of an inquiry, pre-trial investigation and operational-search activities.

Operational-search activities are a system of overt and covert search and counterintelligence measures carried out using operational and operational-technical means [2, p. 100].

Pre-trial investigation is a stage of criminal proceedings that begins from the moment of entering information about a criminal offense into the Unified Register of Pre-Trial Investigations and ends with the closure of criminal proceedings or the submission to the court of an indictment, a petition for the application of compulsory medical or educational measures, a petition for the release of a person from criminal liability.

The forms of pre-trial investigation of criminal offenses are inquiry and pre-trial investigation, which differ from each other in terms of the subject area, procedural procedure for implementation, and the range of bodies that carry out the relevant activities.

Inquiry is a form of pre-trial investigation in which criminal offenses are investigated.

Pre-trial investigation is a form of pre-trial investigation in which crimes are investigated.

The task of pre-trial investigation is to protect the individual, society and the state from criminal offenses, to protect the rights, freedoms and legitimate interests of participants in criminal proceedings, as well as to ensure a prompt, complete and impartial investigation and trial so that everyone who has committed a criminal offense is held accountable to the extent of their guilt, no innocent person is accused or convicted, no person is subjected to unjustified procedural coercion and that due legal procedure is applied to each participant in criminal proceedings.

Pre-trial investigation of criminal offenses is preceded by activities to detect crimes, which can be considered as its integral part. The procedure for detecting crimes consists in exposing a criminal offense.

Exposure of a criminal offense consists in establishing an action or omission that is qualified by criminal law as a criminal offense or crime.

Investigation of a criminal offense is a stage of criminal proceedings that begins from the moment of entering information about a criminal offense into the Unified Register of Pre-Trial Investigations and ends with the closure of criminal proceedings or the referral to the court of an indictment, a petition for the application of compulsory measures of a medical or educational nature, a petition for the release of a person from criminal liability (clause 5 of part one of article 3 of the Criminal Procedure Code of Ukraine (hereinafter referred to as the CPC of Ukraine)).

According to Article 11 of the Criminal Code of Ukraine, a criminal offense is a socially dangerous guilty act (action or inaction) committed by the subject of a criminal offense.

An act or inaction that, although formally contains the signs of any act provided for by this Code, does not constitute a public danger due to its insignificance, i.e. did not cause and could not cause significant harm, is not a criminal offense. to an individual or legal entity, society or the state.

According to the current legislation, criminal offenses are divided into criminal misdemeanors and crimes.

A criminal misdemeanor is an action or omission provided for by the Criminal Code, for the commission of which a basic punishment is provided in the form of a fine, which cannot be more than three thousand non-taxable minimum incomes of citizens (translated into hryvnias 51.000 UAH) or any punishment not related to imprisonment.

Crimes, like offenses, are socially dangerous, are committed deliberately and are committed contrary to the laws established by criminal legislation. In turn, crimes are divided into non-serious, serious and especially serious. According to the Criminal Code of Ukraine, non-serious crimes include acts (actions or inactions), for the commission of which the main punishment is provided in the form of a fine in the amount of no more than ten thousand non-taxable minimum incomes of citizens or imprisonment for a term of no more than five years. For the commission of a serious crime, a fine in the amount of no more than twenty-five thousand non-taxable minimum incomes of citizens or imprisonment for a term of no more than ten years is provided.

In accordance with the above changes, some crimes of minor gravity are classified as criminal misdemeanors, the rest – as non-serious crimes. Previously, crimes for which a penalty in the form of imprisonment for a term of no more than two years was provided for, were classified as non-serious crimes. Currently, such socially dangerous acts are classified as non-serious crimes [1, p. 124].

For the commission of criminal misdemeanors, exemption from criminal liability is possible on the basis of Art. 45–49 of the Criminal Code of Ukraine. Only exemption from criminal liability for committing a corruption criminal offense provided for in Parts 1, 3 of Article 357 of the Criminal Code of Ukraine is impossible.

Certain features are inherent in the exemption from criminal liability on the basis of Art. 49 of the Criminal Code of Ukraine in the event of criminal offenses. A person is exempted from criminal liability if the following periods have elapsed from the date of his/her commission of a criminal offense to the date of entry into force of the verdict: two years – in the case of a criminal offense for which a punishment less severe than restriction of liberty is provided; three years – in the case of a criminal offense for which a punishment in the form of restriction of liberty is provided.

The limitation period is suspended if the person who committed the criminal offense evaded pre-trial investigation or trial [6, p. 48].

The detection and investigation of criminal offenses is carried out by a number of law enforcement agencies.

According to Art. 38 of the Criminal Procedure Code, the bodies of pre-trial investigation (bodies conducting inquiry and pre-trial investigation) are:

- 1) investigative units;
- 2) detective unit, internal control unit of the National Anti-Corruption Bureau of Ukraine [6, p. 51].

The concept of “law enforcement agencies” in a broad sense can be applied to all public authorities. It is even possible to attribute to this category persons who provide public services, implementing the law enforcement function of the state.

Instead, the use by the legislator in the Constitution of Ukraine of the term “law enforcement agencies” (Article 131-1) allows us to distinguish a separate group of bodies authorized to combat crime in the system of law enforcement agencies of the state, however, based on the fact that law enforcement agencies have different powers and different in nature functions of legal protection in the relevant areas of activity, they should also be divided into two subgroups:

a) bodies of narrow specialization (authorized only to perform the functions of criminal law protection);

b) a subgroup of law enforcement agencies endowed with broader powers, since their main (external) functions, along with the fight against crime (criminal law protection), are the implementation of administrative and legal protection of the rights, freedoms and interests of individuals and legal entities, society and the state, etc.

According to the classification of law enforcement agencies developed by I. Korostashova, the above-mentioned entities belong to law enforcement agencies, namely:

1) bodies whose relevant divisions are authorized to carry out covert investigative and detective actions (specified in Art. 38, Part 6, Article 246 of the Criminal Procedure Code of Ukraine), including:

a) highly specialized, carrying out only criminal legal protection (NABU, SBI);

b) broadly specialized, such as those authorized to carry out criminal legal protection and administrative legal protection, etc. (National Police, SBU and other bodies specified in Art. 38 and Part 6, Article 246 of the Criminal Procedure Code of Ukraine, as well as the National Guard of Ukraine).

In addition, according to the set of tasks specified in Art. 131-1 of the Constitution of Ukraine (the vast majority of which are in the area of “criminal justice”) and the role in criminal proceedings (organization and procedural management of pre-trial investigation) should also be attributed to this group, including the prosecutor’s office;

2) bodies, the relevant divisions of which are authorized to carry out public investigative and search actions (specified in Article 5 of the Law of Ukraine “On ORD”), which are simultaneously authorized to perform other external functions than the fight against crime and which are not included in other subgroups (Foreign Intelligence Service, State Security Department and the intelligence agency of the Ministry of Defense) [6, p. 52].

Law enforcement activities are carried out by the Main Investigation Department of the National Police of Ukraine (GSUNP of Ukraine), investigation departments (departments) of the main departments, departments of the Ministry of Internal Affairs of Ukraine in the Autonomous Republic of Crimea, regions, cities of Kyiv and Sevastopol, investigation departments (departments) of the Main Police Department, investigation departments (departments) of city, district, linear departments (departments) of the main departments, departments of the Ministry of Internal Affairs of Ukraine in the Autonomous Republic of Crimea, regions, cities of Kyiv and Sevastopol (investigation departments of territorial police bodies).

During the pre-trial investigation of criminal offenses, in cases established by law, the powers of the investigative body of pre-trial investigation may be exercised by employees of other departments of the National Police, security bodies, bodies exercising control over compliance with tax legislation, bodies of the State Penitentiary Service of Ukraine.

The tasks of pre-trial investigation bodies are the prompt and complete disclosure of criminal offenses, the protection of the individual, society and the state from criminal offenses, the protection of the rights, freedoms and legitimate interests of participants in criminal proceedings.

The pre-trial investigation bodies of the Ministry of Internal Affairs of Ukraine are entrusted with the following tasks:

1. Organization and implementation of pre-trial investigation of criminal offenses that are under investigation by investigators of internal affairs bodies.
2. Taking all measures provided for by law to establish the events of criminal offenses and the persons who committed them.
3. Applying all measures provided for by law to ensure the effectiveness of the pre-trial investigation.
4. Ensuring compensation to individuals and legal entities for damage caused by criminal offenses.
5. Identifying the causes and conditions that contribute to the commission of criminal offenses, and taking measures to eliminate them through the relevant bodies.
6. Organizational and methodological guidance for the investigation of criminal offenses and determining the main directions of improving investigative work, introducing into the practice of pre-trial investigation achievements of science and technology, positive experience, progressive forms and methods of organizing pre-trial investigation [6, p. 52].

In accordance with the tasks assigned to the pre-trial investigation bodies, they perform the following functions:

1. Comprehensive, complete and impartial investigation of the circumstances of the criminal offense, identifying circumstances that expose and those that justify the suspect, accused, as well as circumstances that mitigate or aggravate his punishment, providing them with a proper legal assessment and ensuring the adoption of lawful and impartial procedural decisions.
2. Analysis of investigative practice, organization and results of investigators' activities, making proposals on this basis in the established manner to increase the efficiency of the functioning of pre-trial investigation bodies, ensuring law and order, strengthening the fight against crime, informing the population on these issues through the media.
3. Development and implementation of measures to comply with the legislation, strengthening service discipline, improving the quality of pre-trial investigation and reducing its terms.
4. Study, generalization of positive experience of pre-trial investigation, its implementation in practice and development of modern methods of investigation of certain types of criminal offenses [4, p. 37], etc.

The organization of the activities of the investigative unit consists of three main blocks. The first block includes such elements of activity that are regulated by the norms of criminal procedural law and determine the procedure for criminal proceedings. The second block consists of organizational elements of the investigator's professional activities, which are regulated by departmental regulatory legal acts, in particular, the "Regulations on pre-trial investigation bodies in the system of the Ministry of Internal Affairs of Ukraine"; "Regulations on the Main Investigation Department of the Ministry of Internal Affairs of Ukraine"; "Model Regulations on the Investigation Department (Department) of the Main Police Department of Ukraine in the Autonomous Republic of Crimea, the city of Kyiv and the Kyiv region, the Main Police Department of Ukraine in the regions, the city of Sevastopol" and others [4, p. 68].

Article 216 of the Criminal Procedure Code establishes the jurisdiction, that is, the assignment of a particular element of a criminal offense to the competence of a certain pre-trial investigation body. The jurisdiction of the investigative units of the National Police is the widest.

Pre-trial investigation is carried out by the investigative bodies of the pre-trial investigation individually or by an investigative group. The pre-trial investigation body is obliged to apply all measures provided for by law to ensure the effectiveness of the pre-trial investigation [4, p. 96].

When carrying out the instructions of the investigator, prosecutor, an employee of the operational unit exercises the powers of an investigator.

Investigative security bodies carry out pre-trial investigations of crimes against the foundations of national security of Ukraine, in the field of protection of state secrets, inviolability of state borders, against peace, security of humanity and international law and order, smuggling, terrorism, etc.

Investigative bodies of the State Bureau of Investigation carry out pre-trial investigations of crimes:

1) committed by the President of Ukraine, whose powers have been terminated, the Prime Minister of Ukraine, a member of the Cabinet of Ministers of Ukraine, the First Deputy and Deputy Minister, a member of the National Council of Ukraine on Television and Radio Broadcasting, the National Commission for State Regulation in the Field of Financial Services Markets, the National Commission for Securities and Stock Market, the Antimonopoly Committee of Ukraine, the Chairman of the State Committee for Television and Radio Broadcasting of Ukraine, the Chairman of the State Property Fund of Ukraine, etc.;

2) committed by officials of the National Anti-Corruption Bureau of Ukraine, the Deputy Prosecutor General – Head of the Specialized Anti-Corruption Prosecutor’s Office or other prosecutors of the Specialized Anti-Corruption Prosecutor’s Office, except for cases when the pre-trial investigation of these crimes is assigned to the jurisdiction of detectives of the internal control unit of the National Anti-Corruption Bureau of Ukraine in accordance with Part Five of Article 216 of the Criminal Procedure Code;

3) against the established procedure for performing military service (military crimes), except for crimes provided for in Article 422 of the Criminal Procedure Code.

Investigators of the State Criminal Enforcement Service of Ukraine conduct pre-trial investigations of crimes committed on the territory or in the premises of the State Criminal Enforcement Service of Ukraine.

Detectives of the National Anti-Corruption Bureau of Ukraine conduct pre-trial investigations of crimes provided for in Articles 191, 206, 209, 210, 211, 354 (regarding employees of legal entities under public law), 364, 366, 368, 369, 369, 410 of the Criminal Code of Ukraine.

Detectives of the National Anti-Corruption Bureau of Ukraine, in order to prevent, detect, stop and solve crimes that are attributed to its jurisdiction by this article, by decision of the Director of the National Anti-Corruption Bureau of Ukraine and in agreement with the prosecutor of the Specialized Anti-Corruption Prosecutor’s Office, may also investigate crimes that are attributed to the jurisdiction of investigators of other bodies [5, p. 188].

Pre-trial investigation of criminal offenses is carried out by investigation units or authorized persons of other units of the National Police, security bodies, bodies that exercise control over compliance with tax legislation, bodies of the State Bureau of Investigation, the National Anti-Corruption Bureau of Ukraine. The powers of an investigator during the pre-trial investigation are vested in the investigator (investigator) [5, p. 186].

National Bureaus that carry out pre-trial investigation, and the prosecutor (prosecutors) who exercise procedural management. Attention should be focused on the investigator’s determination of the grounds for initiating criminal proceedings in the form of an inquiry [5, p. 187].

In order to improve the criminogenic situation in the country, we propose, at a minimum, to take at least several of the following measures as soon as possible:

– immediately bring the Criminal Procedure Code, the Laws of Ukraine “On the Prosecutor’s Office”, “On Operational and Investigative Activities” into line with the requirements of the Constitution of Ukraine (regarding the new functions of the prosecutor’s office).

The appointment of an investigator in criminal proceedings in Ukraine, determined by the current CPC of Ukraine of 2012, must be urgently and radically corrected, because from him, as an artificial representative of the prosecution, today one cannot demand a quick, comprehensive, impartial investigation of criminal offenses. In this sense, there are significant contradictions between Art. 2, 9 of the CPC of Ukraine, which impose the fulfillment of the specified duty on

the investigator, and Art. 36–41 of the Code of Criminal Procedure of Ukraine, on the contrary, deprive the investigator of such a duty due to the accusatory nature of his activities. All contradictions should be eliminated by returning to the investigator his natural criminal procedural function, which is in the nature of a comprehensive material and investigative study of the circumstances of the committed criminal offense and is called the function of “impartial investigation of criminal offenses” [6, p. 48].

The current Code of Criminal Procedure of Ukraine imposing on the investigator the duty to perform the general procedural function of prosecution is a gross mistake of the legislator, since the investigator is deprived of the right to perform the specified function in the judicial stages of criminal proceedings. At these stages, the investigator is deprived of the right in any way to defend not only the accusatory, but also his own, purely investigative position regarding the criminal offense he is investigating.

Clause 3 of Art. 3 of the Code of Criminal Procedure of Ukraine directly determines that the performance of the prosecution function in the judicial stages of the process is entrusted only to the prosecutor. Along with reviewing the functional purpose of investigative activities in criminal proceedings in Ukraine, it would be advisable to supplement Chapter 3 of the Criminal Procedure Code of Ukraine with a special paragraph “Pre-trial investigation bodies and jurisdiction” as defined by paragraph 1 in relation to the court “Court and jurisdiction” of the same chapter. The criminal procedural provisions of the court and the criminal procedural provisions of the investigator in criminal proceedings in Ukraine must necessarily meet the requirements of optimality. Introducing such an addition to the Criminal Procedure Code of Ukraine will contribute to increasing the efficiency of this type of criminal procedural activity [7, p. 56]:

- to stop illegal activities aimed at further destruction of the prosecutor’s office and law enforcement agencies through direct intervention of foreign states and their representatives in the selection and placement of personnel in the prosecutor’s office, pre-trial investigation bodies and courts, which contradicts the Fundamental Law of Ukraine];

- to introduce new technologies and innovations into law enforcement activities. Solving problems of increasing the efficiency of crime detection and investigation in modern conditions directly depends on the development and introduction of new technologies and innovations into law enforcement activities. The study of the scientific level of forensic support for crime investigation activities, the use of innovative achievements of modern science and technology indicate their certain lag behind the criminal practice of using the latest means, methods and technologies in criminal activities. This is especially evident in the use of modern information technologies by criminals to commit crimes at the national and international levels.

The introduction of innovations into the practice of combating crime contributes to the optimization of the investigation and the avoidance of investigative errors. In particular, it is worth noting the development and use in the investigation of crimes of automated workplaces of the investigator (ARM of the investigator “Insight”), ARM of forensic experts of various expert specialties (ARM of a tracer, ARM of a ballistics expert, ARM of an economist, ARM of a phonoscopist, ARM of research of intellectual property objects, etc.), ARM of a judge, ARM of processing and sending documents, ARM of a judge’s secretary, ARM of an employee of the drug crime unit, ARM of a lawyer, ARM of a criminologist lawyer, ARM of a prosecutor [8, p. 286].

A special role in forensics is played by specialized computer systems for human identification – they make it possible to receive and analyze information according to several interrelated parameters that can directly or indirectly lead to the disclosure of a crime.

Conclusions. In order to improve the criminogenic situation in the country, we propose, at a minimum, to take at least several of the following measures as soon as possible:

- immediately bring the Criminal Procedure Code, the Laws of Ukraine “On the Prosecutor’s Office”, “On Operational and Investigative Activities” into line with

the requirements of the Constitution of Ukraine (regarding the new functions of the prosecutor's office).

In particular, review the function of suspecting by investigators, since the current CPC of Ukraine's imposition on the investigator of the duty to perform the general procedural function of prosecution is a gross mistake of the legislator. – stop illegal activities aimed at further destroying the prosecutor's office and law enforcement through direct intervention by foreign states and their representatives in the selection and placement of personnel in the prosecutor's office, pre-trial investigation bodies and courts, which contradicts the Fundamental Law of Ukraine;

– introduce the latest technologies and innovations into law enforcement activities. It is worth noting the development and use in the investigation of crimes of automated investigator workplaces (ARM of the investigator "Insight"), ARM of forensic experts of various expert specialties (ARM of a tracer, ARM of a ballisticsian, ARM of an economist, ARM of a phonoscopist, ARM of an intellectual property object research, etc.), etc. Prospects for further scientific research are the study of the circumvention, detection and investigation of criminal offenses in the post-war period.

Bibliography

1. Варавя В. В. Владні суб'єкти викриття і розслідування контрабанди в Україні та провідних країнах ЄС: компаративний аналіз компетенцій. *Правова позиція*. 2017. № 1(18). С. 120–127.
2. Волуйко О., Дручек О. Поняття правоохоронної діяльності та правоохоронних органів у світлі концепції національної безпеки України. *Підприємництво, економіка та право*. 2020. № 10. С. 95–100.
3. Галаган В. І., Саліхова І. Ю. Встановлення факту вчинення кримінального правопорушення як обставини, що підлягає доказуванню у кримінальному провадженні. Київ : УкрНДІ, 2017. 198 с.
4. Гаркуша А. Г., Литвинов В. В., Федченко В. М. Закриття кримінального провадження слідчими Національної поліції. Дніпро : ДДУВС, 2018. 108 с.
5. Горб Ю. В. Підстави закриття кримінального провадження. Новели в ст. 284 Кримінально-процесуального кодексу. Актуальні проблеми вітчизняної юриспруденції. 2018. № 3. С. 185–188.
6. Коросташова І. М. Судові та правоохоронні органи України (питання класифікації). *Правова позиція*. 2021. № 3(32). С. 47–52.
7. Ландіна А. В. Спеціальний суб'єкт злочину: порівняльно-правовий аспект. *Вісник кримінологічної асоціації України*. 2018. № 1. С. 54–63.
8. Михайліченко Т. Кримінальні проступки: особливості правового регулювання. *Підприємництво, економіка та право*. 2020. № 7. С. 284–290.

References

1. Varava, V.V. (2017) Vladni sub"yektu vykryttya i rozsliduvannya kontrabandy v Ukraini ta providnykh krayinakh ES: komparatyvnyy analiz kompetentsiy [Power actors in the detection and investigation of smuggling in Ukraine and leading EU countries: a comparative analysis of competencies]. *Legal position*. 2017. № 1 (18). pp. 120–127. [in Ukr.].
2. Voluyko, O., Druchek, O. (2020) Ponyattya pravookhoronnoyi diyal'nosti ta pravookhoronnykh orhaniv u svitli kontseptsiyi natsional'noyi bezpeky Ukrainy [The concept of law enforcement activities and law enforcement agencies in the light of the concept of national security of Ukraine]. *Entrepreneurship, economy and law of Ukraine*. 2020. № 10. pp. 95–100. [in Ukr.].
3. Halahan, V. I., Salikhova, I. Yu. (2017) Establishing the occurrence of a criminal offense as a circumstance subject to proof in criminal proceedings. Kyiv: UkrSDRI. 198 p.
4. Harkusha, A. H., Lytvynov, V. V., Fedchenko, V. M. (2018) Closing of criminal proceedings by investigators of the National Police. Dnipro: DDUVS, 2018. 108 p.
5. Gorb, Yu. V. (2018) Pidstavy zakryttya kryminal'noho provadzhennya. Novely v st. 284 Kryminalno-protsesual'noho kodeksu [Grounds for closing criminal proceedings. Novels in Article 284 of the Code of Criminal Procedure]. *Current problems of domestic jurisprudence*. № 3. pp. 185–188. [in Ukr.].
6. Korostashova, I. M. (2021) Sudovi ta pravookhoronni orhany Ukrainy (pytannya klasyfikatsiyi) [Judicial and law enforcement bodies of Ukraine (classification issues)]. *Legal position*. 2021. № 3 (32). pp. 47–52. [in Ukr.].

7. Landina, A. V. (2018) Spetsial'nyy sub'yekt zlochynu: porivnyal'no-pravovyy aspekt [Special subject of crime: comparative legal aspect]. *Bulletin of Criminological Association of Ukraine*. 2018. № 1. pp. 54–63. [in Ukr.].

8. Mykhailichenko, T. (2020) Kryminalni prostupky osoblyvosti pravovoho rehulyuvannya [Criminal offenses: features of legal regulation]. *Entrepreneurship, economics and law*. № 7. С. 284–290. [in Ukr.].

АНОТАЦІЯ

Анна Максимова, Володимир Варава. Попередження, виявлення та розслідування кримінальних правопорушень як напрям діяльності органів правоохорони: теоретичні та правові аспекти

У статті визначено, що виявлення й розслідування правопорушень є видом правоохоронної діяльності. Розглянуто поняття «правоохоронна діяльність», під яким розуміють діяльність спеціально уповноважених органів щодо захисту прав і свобод громадян, правопорядку й забезпечення верховенства права, що здійснюється у формах, передбачених законом, і в межах повноважень, наданих цим органам. Установлено, що виявлення й розслідування правопорушень здійснюється у формі дізнання, досудового розслідування й оперативно-розшукової діяльності. Розкрито правові засади, поняття та зміст правоохоронної діяльності щодо виявлення й розслідування кримінальних правопорушень. Досліджено порядок виявлення й розслідування кримінальних правопорушень в Україні.

Досудове розслідування кримінальних правопорушень (дізнання) проводиться відповідно до загальних правил досудового розслідування, передбачених Кримінальним процесуальним кодексом України. Завершення досудового розслідування кримінальних правопорушень здійснюється згідно із загальними правилами, визначеними Кримінальним процесуальним кодексом України, з урахуванням особливостей, передбачених статтею 301 Кримінального процесуального кодексу України. Запропоновано привести Кримінальний процесуальний кодекс України, Закони України «Про прокуратуру», «Про оперативно-розшукову діяльність» у відповідність до вимог Конституції України (щодо нових функцій прокуратури), а також переглянути функцію підтримання обвинувачення слідчим, оскільки покладення чинним Кримінальним процесуальним кодексом України на слідчого обов'язку виконувати загальну процесуальну функцію обвинувачення є грубою помилкою законодавця. Пропонується внести зміни до Кримінального процесуального кодексу України, зокрема щодо припинення незаконних дій, спрямованих на подальше знищення прокуратури та правопорядку шляхом прямого втручання іноземних держав і їхніх представників у добір і розміщення кадрів у прокуратурі, органах досудового розслідування та судах, що суперечить Основному Закону України; а також запровадити новітні технології та інновації в правоохоронну діяльність. Звертається увага на необхідність розроблення й використання автоматизованих робочих місць слідчих, робочих станцій судових експертів різних спеціальностей (трасологічна станція, балістична станція, економічна станція, фоноскопична станція, станція дослідження об'єктів інтелектуальної власності тощо) у процесі розслідування злочинів.

Ключові слова: профілактика, виявлення, розслідування, кримінальні правопорушення, досудове розслідування, правоохоронна діяльність.



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