

UDC 343.98

DOI 10.31733/2078-3566-2023-5-224-231



Alina DISHLYOVA ©
Adjunct
(Dnipropetrovsk State
University of Internal Affairs,
Dnipro, Ukraine)

FEATURES OF PREPARATION FOR THE INSPECTION OF THE LAND OF STATE OR COMMUNAL PROPERTY ON THE FACT OF ILLEGAL ACQUISITION OF THE RIGHT TO IT

Аліна Дишльова. ОСОБЛИВОСТІ ПІДГОТОВКИ ДО ПРОВЕДЕННЯ ОГЛЯДУ ЗЕМЕЛЬНОЇ ДІЛЯНКИ ДЕРЖАВНОЇ АБО КОМУНАЛЬНОЇ ВЛАСНОСТІ ЗА ФАКТОМ НЕЗАКОННОГО НАБУТТЯ ПРАВА НА НЕЇ. В статті розглядаються організаційно-підготовчі заходи до проведення огляду земельної ділянки державної або комунальної власності на яку незаконно набуті права. Наголошується, що на підготовчому етапі закладаються ті підвалини, що забезпечують результативність проведення відповідної процесуальної дії. При цьому огляд місця події має особливого значення, бо може проводитись до початку кримінального провадження, що визначає його значення в отриманні вагомої у прийнятті організаційних, тактичних, правових та інших рішень.

На підставі аналізу практики розслідування вказаної категорії кримінальних правопорушень, зроблено висновки, що допущені слідчими, дізнавачами та прокурорам при проведенні огляду земельної ділянки, порушення та недоліки, в більшості випадків, стають підставою для винесення виправдувального вироку. Таким чином недостатня розробленість розглядуваної у статті проблематики, практичний досвід та інше обумовлюють формування для сторони обвинувачення труднощі отримання позитивного результату огляду як засобу отримання доказів.

Наголошується, що планування проведення огляду доцільно здійснювати вже після отримання відповідних даних про ділянку землі, що стала об'єктом посягання. У свою чергу усвідомлення мети проведення огляду забезпечить спрямованість зусиль, визначення необхідного інструментарію засобів, методів, необхідність за діяння фахівців відповідного профілю діяльності, мінімізації проявів протидії.

В статті наводяться перелік заходів, що є притаманними для таких складових підготовки огляду, що здійснюються до виїзду та по прибуттю на місце його проведення. Наголошується, що у випадку належної організаційної діяльності, визначення необхідних для результативного огляду заходів й засобів буде здійснено до прибуття. Потреби коригування спланованих дій, що виникли вже безпосередньо по прибуттю на місце проведення огляду мають, по-можливості, реалізовуватись до його проведення.

Ключові слова: незаконне набуття права на землю, огляд земельної ділянки, уповноважена особа, учасники слідчої (розшукової) дії, ухвала слідчого судді, організаційно-підготовчі заходи, науково-технічні засоби.

Relevance of the study. The European integration processes of Ukraine determine the transformation of state institutions, bodies and rules, economic, social and other spheres of activity in accordance with the needs of ensuring the external and internal political life of Ukrainian society. These phenomena, quite often, determine the formation of those conditions that, due to circumstances, make possible the commission of a number of criminal offenses. Since Ukraine is a state with the most valuable reference soils in the world, which increases the value of land as a commodity in a market economy and makes it an attractive object of criminal encroachments, including those committed by illegally acquiring the right to land of

© Dishlyova A., 2023

ORCID iD: <https://orcid.org/0000-0001-9755-439X>

k_ksmp@dduvs.in.ua

state and communal property. Therefore, land and land relations are relevant in our country. It should be noted that Article 13 of the Constitution of Ukraine determines that the land, its subsoil, atmospheric air, water and other natural resources that are within the territory of Ukraine, the natural resources of its continental shelf, exclusive (maritime) economic zone are objects of property rights of the Ukrainian people [1]. At the same time, these rights are often illegally encroached upon by persons in order to acquire the right to land of state or communal property.

A significant place in fixing the facts of committing criminal offenses in general and such as the illegal acquisition of the right to land of state or communal property in particular is occupied by such an investigative (detective) action as a survey of a plot of land.

Forensic science determines the compilation of investigative (search) actions from the following stages: preparatory, working, final. The value of the above is due not only to the need to divide complex problems into their simple components, the solution of which is more understandable, accessible, but also to the fact that each stage is inherent only in their inherent tasks, measures and means of their effective implementation. At the same time, it is at the preparatory stage that the foundations are laid that ensure the effectiveness of the relevant procedural action. Inspection of the scene in this regard is of particular importance, because it can be carried out before the start of criminal proceedings, which determines its importance in obtaining weighty in making organizational, tactical, legal and other decisions.

Recent publications review. Conducting inspection of the scene in general and preparation for it was given in the works: V. Bakhina, V. Bernaza, A. Volobueva, V. Galagana, A. Gumina, M. Efimova, V. Zhuravlya, A. Ishchenko, N. Karpova, V. Kovalenko, A. Kolesnichenko, V. Konovalova, M. Kostytsky, A. Kofanova, V. Kuzmicheva, V. Lysychenko, G. Lukashevich, E. Lukyanchikova, V. Malyarova, I. Piroga, V. Pletenets, B. Romanyuk, M. Saltevsy, Z. Sokolovsky, R. Stepanyuk, N. Tatarina, V. Tishchenko, L. Udalova, O. Frolova, P. Tsymbala, V. Tsirkal, K. Chaplinsky, Yu. Chernous, V. Shepitskaya and many others.

However, outside the proper attention of scientists remained the issues of preparation for the inspection of a land plot of state or communal property on the fact of illegal acquisition of the right to it. This, as Y. Dyakin emphasizes, leads to the fact that practical workers make procedural and tactical mistakes [2, p. 140].

In turn, analyzing the practice of investigating the specified category of criminal offenses, it is possible to draw conclusions that were made by investigators, interrogators and prosecutors during the inspection of the land plot violations and shortcomings, in most cases, become the basis for an acquittal. Thus, the insufficient development of this issue, the practical experience of authorized persons, etc., determine the formation for the prosecution of difficulties in achieving a positive result of the review as a means of obtaining evidence.

All of this necessitates paying attention to the study of the actions of authorized persons to determine: grounds, purpose; list of participants; the order of applied and scientific and technical means, etc., during the inspection of the land plot. Thus, the solution of the above is seen in both theoretical and practical planes.

The article's objective is to highlight the peculiarities of preparation for the inspection of a land plot that has become the object of illegal acquisition of the right to land of state or communal property.

Discussion. Investigative practice determines that each investigative (detective) action is individual and unique. There is no exception to this and such one as a review, which cannot be replaced by conducting other procedural actions. The review refers to priority, urgent investigative (search) actions that take on special importance at the beginning of the investigation.

Part 1 of Article 237 of the Criminal Procedure Code of Ukraine determines that in order to identify and record information about the circumstances of a criminal offense, the investigator, prosecutor inspect the area, premises, things, documents and computer data [3].

In turn, it is worth noting that the inspection of the scene is an investigative (search) action, the purpose of which is to study the material situation of the scene by direct personal perception of it by the investigator, other participants in the inspection in order to identify, fix and extract traces of a criminal offense and other material evidence, clarify the mechanism of the incident and other circumstances that are important for the proceedings [4, p. 333].

So, among the features of the organization of the inspection of the scene of the incident – the land plot during the investigation of the illegal acquisition of the right to land of state or

communal property, it can be determined that it is carried out after entering information into the URDI and receiving all the necessary documents for this land plot. The specified peculiarity lies in the fact that before entering information into the URDI, without any documents on the specified land plot, the authorized person may have difficulty understanding the procedure for the allocation, including the use of a specific direction of specialists, scientific and technical means, main and secondary objects, as well as their fixation in the protocol and annexes to it. In addition, the land may not correspond to the technical and physical characteristics described in the documents granting ownership to it. Especially when these documents are obtained illegally.

So in 2017, with the goal of building an elite residential complex on illegally leased land, the director of the company entered into a conspiracy with the owners and officials of the group of enterprises. Realizing her criminal plan, the suspect prepared and submitted to the Kyiv City Council documents containing knowingly false information about the grounds for the preemptive right to use the land on ul. Antonovich territorial community of Kyiv. By avoiding the procedure for the sale of lease rights to the land on a competitive basis (land bidding), the suspect continued to use it, that is, illegally seized the right to lease the land, which caused damage to the territorial community by almost 30 million UAH, thereby committing actions qualified under Part 2 of Article 366 and Part 5 of Article 91 of the Criminal Code of Ukraine [5].

Such examples demonstrate the need for proper preparation and complete fixation of the features of the land plot in the inspection protocol, which will become the basis for conducting an appraisal and land examination to establish the amount of damage caused by the illegal acquisition of the right to land of state or communal property. Without this, it is impossible to disclose the content of the subjective side in the alleged offense with material composition.

It is worth noting that the inspection of the land during the investigation of the illegal acquisition of the right to land of state or communal property is carried out in accordance with the requirements of the CPC of Ukraine. Part 2 of Article 237 of the CPC of Ukraine determines that the inspection of a dwelling or other possession of a person is carried out in accordance with the rules of this Code provided for a search of a dwelling or other possession of a person [3].

A special regime for the implementation of this procedural action is carried out on the basis of the decision of the investigating judge in order to respect the human rights provided for in Art. 30 of the Constitution of Ukraine [1], the Universal Declaration of Human Rights [6], the International Covenant on Social and Political Rights [7] and the European Convention on Human Rights [8], etc.

At the same time, if the area located outside the settlement is owned by a local self-government body, a decision to conduct a review by the investigating judge is not required.

As N. Tataryn emphasizes, it is advisable to inspect the scene of the incident according to the received message about the fact of unauthorized occupation of a land plot or unauthorized construction immediately after registration by the duty officer of the internal affairs body in the Journal of Unified Accounting before entering the data into the Unified Register of Pre-Trial Investigations, since this is how it is possible to fully record evidence indicating the commission of this particular offense [9, p. 307].

The given position can be supported if on the corresponding site already placed some equipment, means for carrying out construction or other earthworks, the site is surrounded by a fence (fence, provided with measures and means of protection, etc.), or made other changes in the material situation that can confirm the relevant fact.

The organization of the inspection of the land plot, the ownership of which was acquired illegally, should be applied taking into account the relevant features. In the absence of any guidelines that allow us to determine that it was this site that became the subject of criminal encroachment, there will certainly be difficulties in organizing its inspection, and the possibility of erroneous determination of the place will cast doubt on the effectiveness, and therefore the expediency of its conduct at the moment. In addition, the inspection as a manifestation of the activity of law enforcement agencies to the relevant fact may become known to criminals and persons not interested in the investigation. The measures taken by them to counteract by concealing the traces of the committed act, falsifying evidence, processing an alibi, etc. [10, p. 81], will complicate the collection of evidence and the judicial perspective of criminal proceedings. Therefore, the planning of the review, in our opinion, it is advisable to consider after receiving the relevant data on the land that has become the object of

encroachment both operationally and from open sources. Yes, the State Service for Geodesy, Cartography and Cadastre [11], on the web resource provides an opportunity to obtain information on the number of alienated land plots in pieces, the cost of dynamics on a monthly basis, in the context of regions. At the same time, it becomes possible to obtain data on owners and users of land plots, as well as data on the normative monetary valuation of land. The openness of the relevant data is aimed firstly at minimizing corruption risks, secondly – identifying by the public the facts of illegal seizure of both land and the right to it, and thirdly – quickly obtaining information necessary in organizing and planning activities to counter these illegal manifestations in general and conducting a review in particular. In turn, awareness of the purpose of the review will ensure the focus of efforts, the definition of the necessary tools, methods, the need for the actions of specialists in the appropriate activity profile.

A significant place in the preparation for the investigative inspection is to divide it into such components that are carried out before departure and upon arrival at the place of inspection.

At the same time, before leaving the scene, the investigator must carry out the following preparatory actions:

- receive comprehensive information about the circumstances of the criminal offense;
- ensure the protection of the scene of the incident (for example, by forces Patrol service, which are located near the crime scene, or the administration of the institution, etc.) and detain persons who are eyewitnesses of a criminal event, until the arrival of the investigative-operational group;
- to establish what measures have been taken to eliminate the consequences of a criminal offense;
- organize medical assistance to victims or persons who have committed an offense;
- determine the composition of the investigative-operational group (if necessary, attract the necessary specialists);
- in advance to ensure the availability of witnesses, if there is reason to believe that at the scene it will be difficult or impossible to attract them;
- prepare the necessary scientific and technical means to ensure the departure to the scene of the incident and the inspection (forensic means, transport, communications, etc.);
- to resolve the issue of the use of the service-search dog;
- ensure the participation of the necessary participants in the conduct of this investigative action [12, p. 229].

The study of the above general provisions, taking into account the needs of inspecting a piece of land of a state or communal property that has become the object of encroachment, allows us to identify the following key organizational and preparatory measures that determine the need:

- find out the form of ownership of the land,
- obtain, if necessary, permission of the court to conduct its inspection,
- to determine, taking into account the conditions of the armed aggression of the Russian Federation against Ukraine, measures and means of ensuring the safety of participants and unauthorized persons;
- outline the list of circumstances that need to be clarified (identified, fixed);
- prepare technical means necessary for inspection of the scene,
- determine the composition of the investigation team and involve witnesses, other participants in the inspection of the scene, depending on the situation, etc.

At the same time, depending on the circumstances, it is possible to apply the authorized person and other measures and means, participants. Specialists of the corresponding direction of activity acquire a separate meaning in the definition of participants. The need to involve a specialist during the inspection of the land is due to the need to establish the boundaries of the land and determine the area of illegally acquired land, which requires additional knowledge and the use of special measuring devices [13, p. 164].

In practice, the following specialists may be involved in conducting such a category of land surveys:

- certified engineer-surveyor, information about which is entered in the State register of certified engineers-surveyors [14];
- certified land surveying engineer, information about which is entered in the State Register of Certified Land Surveying Engineers [15];
- surveyor of the united territorial community, city or regional specialists-

representatives of the State Service of Ukraine for geodesy, cartography and cadastre. The above list is not exclusive and may, depending on the needs, be expanded by specialists in other areas of activity. At the discretion of the investigator, specialists of other areas of activity can also be involved, including the purpose of obtaining a model of the area with the use of laser scanning of the area for its spatial modeling [16].

At the same time, on the example of planning the location of highways and their design, where the use of LIDAR technology with photogrammetric mapping, which provides acceleration of activity, saving time and money [17], opportunities can be demonstrated to be used in the formation of a spatial model of a land plot of state or communal property, to which ownership is illegally acquired.

It should be noted that scientific and technological progress determines the possibility of using other scientific and technical means, including the on-board laser cartographer of the area ALTM 3100EA the Canadian company Optech [18]. This will allow you to get information about the shape of the relief of the corresponding area, which is of particular importance in difficult-to-reach places in conditions of steep slopes, swampy places, etc.

No less important is the need to determine GPS control points on the ground. However, it is worth noting that the election of technical means, the functioning of which involves Internet communication should be carried out taking into account its possible absence in the relevant area, or taking into account interruptions in the activities of the mobile operator [19].

At the same time, forecasting the need for appropriate means and measures upon arrival at the inspection site may require both adjustments and the use of others.

It is worth noting that the general provisions of the organization and inspection of the scene determine that arriving at the scene, the investigator must:

- mark the time of arrival of the investigative-operational group;
- make sure that the measures to protect the scene, assistance victims, elimination of consequences, are taken;
- take measures to preserve physical evidence;
- check the changes that occurred at the scene before his arrival;
- determine the circle of participants of the investigative examination and hold a briefing meeting;
- establish the identity of the victim (witnesses) and, if necessary, interview them, give tasks to the operational workers to establish the specified persons;
- determine the traces left by the victim, eyewitnesses and other persons who are not involved in a criminal offense;
- fix the location of the victim if it is necessary to transport him to a medical institution;
- get operational information for the nomination of investigative and search versions;
- remove from the scene unauthorized persons who are not related to the inspection;
- ensure the safety of traces, material objects and protection of the situation of the scene;
- to inform the territorial authorities about the nature of the crime and the signs of offenders;
- organize surveillance (ambush) in places where criminals may appear;
- use (if necessary) the media;
- draw up a plan for the inspection of the scene [12, p. 232].

Considering the given set of measures, we can note that it in one way or another can be applied during the inspection of areas of state or communal property that have become the object of criminal encroachment. At the same time, taking into account the needs arising from the review we are considering, we consider it appropriate to identify the following main measures that determine the need:

- ensure the safety of participants and unauthorized persons;
- carry out a general bypass of the area, during which he becomes acquainted with the situation;
- define boundaries, as well as main and secondary objects;
- choose the most appropriate methods of conducting techniques;
- identify key points for making photos, video recordings,
- make sure that the tasks are correctly allocated to the relevant participants and the use of existing human, technical resources;
- to attract, if necessary, specialists of other branches of knowledge, etc.

The set of organizational measures given by us has an approximate meaning and can, if

necessary, be adjusted to the needs of each individual inspection site. That is, already directly on the spot, the authorized person can determine the need to adjust the relevant measures and means that could not be predicted for attraction before arrival.

Thus, only preparatory measures for the inspection of the area, upon the fact of illegal acquisition of the right to land of state or communal property in its aggregate can ensure its effective conduct.

Preparation for the inspection should be considered from the standpoint of such components used by the authorized person before departure to the inspection site and upon arrival.

Each of these components is characterized by similar, but excellent measures and means aimed at implementing the tasks of inspecting the area. In this case, in the case of proper organizational activity, the determination of the measures and means necessary for effective inspection will be determined before arrival. The needs to adjust the planned actions that have appeared/have arisen immediately upon arrival at the place of inspection should, if possible, be implemented before it is carried out.

Conclusions. Our research allows us to emphasize that the solution of this problem is seen both in the theoretical and practical planes, the implementation of which necessitates during the organization of the review of the definition: grounds, goals; list of participants; the order of applied and scientific and technical means, etc., during the inspection of the land.

Preparation for conducting an investigative inspection of areas of state or communal property that have become the object of encroachment must be carried out from the standpoint of such training components carried out before departure and upon arrival at the place. Their inherent list of measures and means should be determined by the completeness of preparation for the implementation of the tasks of inspecting a land plot of state or communal ownership upon the fact of illegal acquisition of the right to it.

The directions of our further research will focus on the consideration of the tactical features of the inspection of the land on the fact of illegal acquisition of the right to land of state or communal ownership.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

References

1. Конституція України. URL : <https://www.president.gov.ua/documents/constitution>.
2. Дякін Я. О. Огляд земельної ділянки як засіб отримання доказів стороною обвинувачення під час доказування у справах, пов'язаних із незаконним заволодінням землею. *Право. ua*. 2019. № 1. С. 139-146.
3. Кримінальний процесуальний кодекс України. Закон України «Про внесення змін до деяких законодавчих актів України у зв'язку з прийняттям Кримінального процесуального кодексу України». Харків : Одиссей, 2012. 360 с.
4. Криміналістика: підручник / В. В. Пясковський, Ю. М. Черноус, А. В. Іщенко, О. О. Алексєєв та ін. К. : «Центр учбової літератури», 2015. 544 с.
5. Прокуратура повідомила про підозру чиновниці, яка незаконно заволоділа правом оренди земельної ділянки вартістю майже 30 млн. грн. URL : <https://interfax.com.ua/news/general/770703.html>.
6. Всеобщая декларация прав человека Принята на третьей сессии Генеральной Ассамблеи ООН резолюцией 217A(III) от 10 декабря 1948 г. URL : <https://ips.ligazakon.net/document/MU48001D>.
7. Міжнародний пакт про громадянські і політичні права ратифіковано Указом Президії Верховної Ради Української РСР N 2148-VIII (2148-08) від 19.10.73 р. URL : https://zakon.rada.gov.ua/laws/show/995_043#Text.
8. Європейська конвенція з прав людини, ратифікована Законом № 475/97-ВР від 17.07.97 р. URL : https://zakon.rada.gov.ua/laws/show/995_004#Text.
9. Татарин Н. М. Тактика огляду місця події під час самовільного зайняття земельної ділянки та самовільного будівництва. *Право і суспільство*. 2014. № 3. С. 305-310.
10. Плетенець В. М. Теоретичні та праксеологічні засади подолання протидії досудовому розслідуванню : монографія. Одеса : Видавничий дім «Гельветика», 2020. 424 с.
11. Державна служба з питань геодезії, картографії та кадастру: офіційний веб-сайт. URL : <https://land.gov.ua/>.
12. Криміналістика (курс лекцій): навчальний посібник / М. Ю. Будзівський, О. В. Лускатов, І. В. Пиріг, В. М. Плетенець, К. О. Чаплинський, Ю. А. Чаплинська. Д. : Дніпроп. держ. ун-т внутр. справ, 2013. 397 с.
13. Ігнатченко Н. В. Розслідування кримінальних правопорушень у сфері земельних

- відносин: дисертація на здобуття наукового ступеня доктора філософії. Київ, 2021. 210 с.
14. Державний реєстр сертифікованих інженерів-геодезистів. URL : <https://data.gov.ua/dataset/6130efbe-eceb-4f78-beb6-3152dd3d8c36>.
15. Державний реєстр сертифікованих інженерів-землевпорядників. URL : <https://data.gov.ua/dataset/f5e3730e-0196-452a-8d43-746825e4dfbb>.
16. Бурштинська Х., Василюха І., Пікулик С. Фотограмметрія, геоінформаційні системи та картографія Опрацювання даних лазерного сканування місцевості для відтворення гідрографічних об'єктів. *Сучасні досягнення геодезичної науки та виробництва*. Львів: Ліга-прес. 2009. 1 (17). С. 195-203. URL : https://vlp.com.ua/files/33_27.pdf.
17. Veneziano D., Souleyrette R., Hallmark S. Integrating Lidar and Photogrammetry in Highway Location and Design. 2003. URL : https://www.researchgate.net/publication/228468660_Integrating_Lidar_and_Photogrammetry_in_Highway_Location_and_Design.
18. ALTM 3100EA Airborne Laser Terrain Mapper. URL : <https://pdf.directindustry.com/pdf/optech/altm-3100ea-airborne-laser-terrain-mapper/25132-7668.html>.
19. Бедрак В. Атака на Київстар: що відомо про причини та наслідки збою у мережі. 2023. URL : <https://fakty.com.ua/ua/ukraine/20231212-ataka-na-kyivstar-shho-vidomo-pro-prychyny-ta-naslidky-zboyu-u-merezhi/>.

Submitted 20.10.2023

1. Konstituciya Ukrayini [Constitution of Ukraine]. URL : <https://www.president.gov.ua/documents/constitution>. [in Ukr.].
2. Dyakin, Ya. (2019). Oglyad zemelnoyi dilyanki yak zasib otrimannya dokaziv storonoyu obvinuvachennya pid chas dokazuvannya u spravah, pov'yazanih iz nezakonnim zavolodinniam zemleyu [Inspection of a land plot as a means of obtaining evidence by the prosecution during evidence in cases related to illegal acquisition of land]. *Pravo.ua*. 2019. No. 1. P. 139-146. [in Ukr.].
3. Kriminalnij procesualnij kodeks Ukrayini. Zakon Ukrayini "Pro vnesennya zmin do deyakih zakonodavchih aktiv Ukrayini u zv'yazku z priynyattiam Kriminalnogo procesualnogo kodeksu Ukrayini" [Criminal Procedure Code of Ukraine. The Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine in Connection with the Adoption of the Criminal Procedure Code of Ukraine"]. (2012). Kharkiv : Odyssey. 360 p. [in Ukr.].
4. Kriminalistika: pidruchnik [Forensics: textbook] / V. V. Pyaskovskyi, Yu. M. Chornous, A. V. Ishchenko, O. O. Alekseev et al. (2015). K.: "Center for Educational Literature". 544 p. [in Ukr.].
5. Prokuratura povidomila pro pidozru chinovnici, yaka nezakonno zavolodila pravom orendi zemelnoyi dilyanki vartistyu majzhe 30 mln. grn [The prosecutor's office reported on the suspicion of an official who illegally took possession of the right to lease a plot of land worth almost UAH 30 million]. URL : <https://interfax.com.ua/news/general/770703.html>. [in Ukr.].
6. Vseobshaya deklaraciya prav cheloveka Prinyata na tretej sessii Generalnoj Assamblei OONrezolyuciej 217A(III) ot 10 dekabrya 1948 g. [The Universal Declaration of Human Rights Adopted at the third session of the UN General Assembly by Resolution 217A(III) dated December 10, 1948]. URL : <https://ips.ligazakon.net/document/MU48001D>. [in russ.].
7. Mizhnarodnij pakt pro gromadyanski i politichni prava ratifikovano Ukazom Prezidiyi Verhovnoyi Radi Ukrayinskoyi RSR N 2148-VIII (2148-08) vid 19.10.73 r. [The International Covenant on Civil and Political Rights was ratified by the Decree of the Presidium of the Verkhovna Rada of the Ukrainian SSR N 2148-VIII (2148-08) dated 10.10.73]. URL : https://zakon.rada.gov.ua/laws/show/995_043#Text. [in Ukr.].
8. Yevropejska konvenciya z prav lyudini ratifikovana Zakonom № 475/97-VR vid 17.07.97 r. [The European Convention on Human Rights was ratified by Law No. 475/97-VR of July 17, 1997]. URL : https://zakon.rada.gov.ua/laws/show/995_004#Text. [in Ukr.].
9. Tataryn, N. (2014). Taktika oglyadu misyca podiyi pid chas samovilnogo zajnyattya zemelnoyi dilyanki ta samovilnogo budivnictva [Tactics of inspecting the scene of the incident during arbitrary occupation of land and arbitrary construction]. *Law and society*. No. 3. Pp. 305-310. [in Ukr.].
10. Pletenets, V. (2020). Teoretichni ta prakseologichni zasadi podolannya protidiyi dosudovomu rozsliduvannu : monografiya [Theoretical and praxeological principles of overcoming resistance to pre-trial investigation: monograph]. Odesa: Helvetica Publishing House, 2020. 424 p. [in Ukr.].
11. Derzhavna sluzhba z pitan geodezi, kartografii ta kadastru: oficijnij web-sajt [State Service for Geodesy, Cartography and Cadastre: official website]. URL : <https://land.gov.ua/>. [in Ukr.].
12. Kriminalistika (kurs lekcij) : navchalnij posibnik [Forensics (course of lectures): study guide] / M. Yu. Budzievskiy, O. V. Luskatov, I. V. Pyrih, V. M. Pletenets, K. O. Chaplinskyi, Yu. A. Chaplinska. (2013). D.: Dnipropetrovsk State University of Internal Affairs. 397 p. [in Ukr.].
13. Ignatchenko, N. (2021). Rozsliduvannya kriminalnih pravoporushen u sferi zemelnih vidnosin: disertaciya na здобуття наукового ступеня доктора філософії [Investigation of criminal offenses in the field of land relations: dissertation for obtaining the scientific degree of Doctor of Philosophy]. Kyiv, 2021. 210 p. [in Ukr.].
14. Derzhavnij reyestr sertifikovanih inzheneriv-geodezistiv [State register of certified surveying

- engineers]. URL : <https://data.gov.ua/dataset/6130efbe-ecce-4f78-beb6-3152dd3d8c36>. [in Ukr.].
15. Derzhavnij reyestr sertifikovanih inzheneriv-zemlevporyadnikiv [State register of certified land surveyors]. URL : <https://data.gov.ua/dataset/f5e3730e-0196-452a-8d43-746825e4dfbb>. [in Ukr.].
16. Burshtynska, H., Vasylikha, I. & Pikulyk S. (2009). Fotogrammetriya, geoinformacijni sistemi ta kartografiya Opracyuvannya danih lazernogo skanuvannya miscevoli dlya vidtvorennya gidrografichnih ob'ektiv [Photogrammetry, geoinformation systems and cartography. Processing of data from laser scanning of terrain for the reproduction of hydrographic objects]. *Modern achievements of geodetic science and production*. Lviv: Liga-press. 1 (17). P. 195-203. URL: https://vlp.com.ua/files/33_27.pdf. [in Ukr.].
17. Veneziano, D., Souleyrette, R. & Hallmark, S. (2003). Integrating Lidar and Photogrammetry in Highway Location and Design. URL : <https://www.researchgate.net/publication/228468660> Integrating Lidar and Photogrammetry in Highway Location and Design.
18. ALTM 3100EA Airborne Laser Terrain Mapper. URL : <https://pdf.directindustry.com/pdf/optech/altm-3100ea-airborne-laser-terrain-mapper/25132-7668.html>.
19. Bedrak, V. (2023). Ataka na Kiyivstar: sho vidomo pro prichini ta naslidki zboyu u merezhi [Attack on Kyivstar: what is known about the causes and consequences of the network failure]. URL : <https://fakty.com.ua/ua/ukraine/20231212-ataka-na-kyivstar-shho-vidomo-pro-prychyny-ta-naslidky-zboyu-u-merezhi/>. [in Ukr.].

ABSTRACT

The article considers organizational and preparatory measures for the inspection of a land plot of state or communal property to which illegally acquired rights. Based on the analysis of the practice of investigating the specified category of criminal offenses, conclusions were drawn that were made by investigators, interrogators and prosecutors during the inspection of the land plot, violations and shortcomings, in most cases, become the basis for an acquittal. The article provides a list of measures that are inherent in such components of the preparation of the inspection, carried out before departure and upon arrival at the place of its conduct.

It is noted that in the case of proper organizational activities, the determination of the necessary measures and means for effective review will be carried out before arrival. The needs to adjust the planned actions that have appeared/have arisen immediately upon arrival at the place of inspection should, if possible, be implemented before it is carried out.

Keywords: *illegal acquisition of the right to land, inspection of land, authorized person, participants of investigative (search) action, ruling of the investigating judge, organizational and preparatory measures, scientific and technical means.*

UDC 343.98

DOI 10.31733/2078-3566-2023-5-231-237



Diana HARASHCHUK ©
Adjunct
(Dnipropetrovsk State
University of Internal Affairs,
Dnipro, Ukraine)

THE SUBJECT OF CRIMINAL ENCROACHMENT AS AN ELEMENT OF THE FORENSIC CHARACTERISTICS OF THE ILLEGAL FISHING

Діана Гарашук. ПРЕДМЕТ ЗЛОЧИННОГО ПОСЯГАННЯ ЯК ЕЛЕМЕНТ КРИМІНАЛІСТИЧНОЇ ХАРАКТЕРИСТИКИ НЕЗАКОННОГО ЗАЙНЯТТЯ РИБНИМ ДОБУВНИМ ПРОМИСЛОМ. Наукова стаття присвячена дослідженню предмету злочинного посягання незаконного зайняття рибним добувним промислом, як складового елементу криміналістичної характеристики. Досліджено поняття предмету злочинного посягання і його особливості для вказаного кримінального правопорушення, зокрема зазначено умови при яких

© Harashchuk D., 2023

ORCID iD: <http://orcid.org/0000-0003-0221-6369>

k_ksmp@dduvs.in.ua