

# INVESTIGATIONS AND OTHER PROCEDURAL ACTIONS AIMED AT RECOVERING MATERIAL SOURCES IN THE INVESTIGATION OF CRIMINAL OFFENSES AGAINST PROPERTY

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**Annotation.** *The scientific article conducts a theoretical study of the procedural regulation of conducting such an investigative (search) action as a search in criminal proceedings related to the commission of criminal offenses against property. The peculiarities and significance of the search for the investigation of the proceedings of the specified category are considered. An analysis of the forensic literature is carried out in relation to the study of aspects that affect the features of detection and recovery of search objects, a list of such objects is indicated, and recommendations are made regarding the most optimal ways to preserve the recovered objects. Issues related to the preparation of this investigative (search) action, tactical, psychological and organizational aspects of its conduct are considered.*

*The article is devoted to highlighting problematic issues and difficulties that arise during the preparation and implementation of other procedural actions aimed at extracting material sources of evidence during the investigation of criminal offenses against property. The most common procedural actions during the investigation of criminal offenses against property, other than search, are temporary access to things and documents and inspection.*

*It was emphasized that before making a decision to carry out such procedural actions, it is necessary to resolve a number of organizational and tactical issues. First, there is the question of clarifying the list of things, documents that reflect certain legal facts, the circumstances of committing illegal acts, as well as those that are instruments of crime.*

*At the same time, the development of digital technologies makes it possible to remove, in addition to traditional objects, also information traces, which are formed as a result of the impact on computer information (by destruction, distortion). First of all, they remain on magnetic carriers of information and are associated with changes that have occurred in the information itself, compared to its initial state. Issues related to the seizure and inspection of computer equipment and its carriers, issues of the participation of specialists of the relevant profile are highlighted.*

**Key words:** *search, search objects, hiding place, tactical search techniques, temporary access to things and documents, inspection, criminal offenses against property.*

## 1. Formulation of the problem.

When investigating criminal offenses against property, a number of tasks are set, most of which can be solved through investigative (search) actions. Timely organization and conduct of investigative (search) and other procedural actions, the purpose of which is to extract and study material sources of evidence, is a guarantee of a successful investigation. The most common procedural actions during the investigation of criminal offenses against property are search, temporary access to things and documents and inspection. However, during the extraction and investigation of objects in proceedings of this category, investigators often face difficulties of both a procedural and an organizational-tactical nature, which require additional analysis and resolution.

## 2. Analysis of scientific publications.

Issues related to the organization and conduct of investigative (search) and other procedural actions, the purpose of which is the extraction and study of material sources of evidence, have repeatedly attracted the attention of scientists such as: A.F. Volobueva, V.O. Konovalova, O.L. Musienka, O.V. Pchelina, V.Yu. Shepitka, K.O. Chaplinskyi, Yu.M. Chornous and other scientists. However, there is some disagreement in the legal literature on some aspects.

**3. The purpose of the study is to highlight problematic** issues that arise during the preparation and conduct of procedural actions aimed at seizing material sources during the investigation of criminal offenses against property, as well as providing recommendations on the most effective organization and tactics of conducting such procedural actions.

## 4. Review and discussion.

Among the investigative (research) actions aimed at extracting information from material sources, the most common are search and investigative inspection. Although at first glance these SRDs have similar features, they are significantly different. The similarity is determined by the commonality of a number of tasks of these investigative (search) actions – this is the search and extraction of objects that are important for criminal proceedings (physical evidence, documents).

At the same time, a search, unlike an inspection, has a coercive nature, which is manifested in the fact that an inspection of a person's home or other property, as well as a personal search, can be carried out without the consent of the searched person, against his will and with interference in the sphere of his personal interests. However, it is possible to get acquainted with things and documents, make copies of them and remove them during temporary access to things and documents. Despite the fact that this procedural measure is not an investigative (search) action, it has common features with inspection and search, because the purpose of these procedural actions is to obtain material evidence [1].

Therefore, during the investigation of criminal offenses against property, obtaining material evidence is possible not only by conducting investigative (search) actions, but also by conducting other procedural actions.

However, before making a decision to carry out such procedural actions, it is necessary to resolve a number of organizational and tactical issues. First, there is the question of clarifying the list of things, documents that reflect certain legal facts, the circumstances of committing illegal acts, as well as those that are instruments of crime.

At the same time, the development of digital technologies makes it possible to remove, in addition to traditional objects, also information traces, which are formed as a result of the impact on computer information (by destruction, distortion). First of all, they remain on magnetic carriers of information and are associated with changes that have occurred in the information itself, compared to its initial state. Also, the information traces include the consequences of the operation of antivirus and test programs, which can be detected during the study of computer equipment, work records of programmers, protocols of the operation of antivirus programs and software [2, p. 8].

During searches and temporary access to things and documents during the investigation of criminal offenses against property, a large number of material objects are seized, in particular:

- handwritten notes and diagrams and graphs about criminal activities in notebooks and on separate sheets;
- printouts with forensically significant information;
- shoes, clothes, accessories, means of disguise (wigs, mustaches, false noses, etc.);

- forms of documents, which are necessary for the implementation of fraudulent actions;
- special literature (on the topic of forgery of documents, psychology of deception, rules of concluding agreements);
- extracts from magazines with information about real estate objects and their owners;
- newspapers with phone numbers underlined;
- various statements submitted by the fraudster to the bodies related to real estate transactions;
- seals and stamps, both real (fraudsters often steal them for criminal purposes) and fake;
- signature cliches;
- identity documents (passports, certificates, etc., both real and fake). At the same time, material traces can also remain on computer equipment (fingerprints, microparticles on the keyboard, disk drives, printer, etc.), as well as on magnetic media and optical disks [3].

In the context of this issue, it should be noted that the provision of Article 159 of the Criminal Procedure Code of Ukraine requires that when preparing a petition to the investigating judge for temporary access to things and documents, specific things and documents to which temporary access is planned to be obtained and the meaning of these things and documents to establish the circumstances in criminal proceedings. The list of objects must also be specified in the decision of the investigating judge (court) to conduct a search. Already at the stage of the application, the investigator must fully imagine the objects to which access must be made, their nature and legal status, as well as the data of the person in whose possession these things and documents are.

In addition, in the course of preparing for the seizure, important tactical tasks of the investigator are: finding out the location and functional structure of the institutions where this procedural action is planned; establishment of the order of organization of document circulation, rules of registration and storage of documentation; collecting information about the name, characteristic features, quantity, series, possible signs of counterfeiting, etc. [4, p. 93].

In general, the following components can be attributed to the system of organizational and preparatory actions before seizure (through search or temporary access to things and documents):

- analysis of the investigative situation at a certain stage of the investigation;
- determination of the need for a search or temporary access to things and documents, tasks and objects that are subject to search (seizure);
- clarification of the probative value of seized objects;
- choosing the time and places where the withdrawal will take place;
- substantiation of the legal grounds for conducting a procedural action and obtaining a decision;
- obtaining the most complete information about the person in whom the procedural action will be carried out;
- development of a search plan, taking into account the number and qualitative composition of participants, time and location, technical and forensic means that will be used during the search, etc.

N.V. Pavlova also emphasizes the importance of establishing the correct legal address of the place of the search, because often the objects of the search are the premises of enterprises, institutions and organizations. However, quite often the legal address of the enterprise, organization, institution containing a large number of objects (offices, offices) is indicated in the decision. This leads to the fact that search actions are carried out even in those offices whose owners and owners are not related to the commission of fraudulent actions, which leads to complaints from such persons. The solution to this problem is to indicate in the decision not only the legal address, but also the numbers, the location of the offices, which are located and the territory of the search [5, p. 282].

Problematic when conducting a search during the investigation of criminal offenses against property is the seizure of computer equipment and its carriers, which increases the role of a specialist in conducting investigative (search) actions, including searches.

This circumstance was reflected in the current CCP, where in Art. 236, in order to receive help on issues requiring special knowledge, the investigator, prosecutor has the right to invite specialists to participate in the search. Based on this, the hacking of possible protective systems should be carried out only by a highly qualified specialist in special conditions. At the time of seizure of computer equipment, the investigator must take control of the premises where the equipment is installed, as well as the electrical panel. It is impossible to allow anyone, except a competent specialist, to touch the equipment and power supply devices. Devices that are turned off should not be turned on. All peripherals connected to the computer should be photographed or described in the protocol so that it is clear what the connections were. It is also worth paying attention to the place where the computer equipment is located, passwords, network addresses and other data may be written nearby - often such records lie nearby, glued to the monitor, hanging on the wall. If the printer is printing something, wait for it to finish printing. Everything that is in the output tray of the printer is described and removed along with other media of computer information. After that, the computers should be turned off, this should be done by a specialist [6, p. 65].

Information contained in electronic registers is also important. In this context, the review and recording of information contained in electronic format becomes important. In the legal literature, two ways of fixing the information on the web page are proposed:

1) visual form, during which only a visual review of the image on the device's display is performed: a printout of a web page (Web-screenshot) and its review; recording by a person of the content contained on the website by saving it on appropriate media (CD, DVD, magnetic disks), etc.

2) technological form of fixation: obtaining information from providers (log files); instant capture of web pages using private online services. With such a fixation, not only the visual display is fixed, but also the source code, the URL of the web page and the time of such fixation; using the Internet Archive service. WaybackMachine, which captures the content of individual web pages [7].

From this, it follows that in the studied category of proceedings, the specific weight of seizures is precisely computer equipment, technical means of telecommunications, as well as software. That is, the investigator is faced with a number of problems of a technical and software nature that require the intervention of knowledgeable persons. The most expedient during the investigation of criminal offenses against property is the involvement of specialists in computer technology and software (programmer, system engineer, etc.). Instead, in addition to general tasks, the specialist performed the following functions:

- providing advice on the correct activation of technical devices, file search, access to cloud storage and the operating system, etc.;
- assistance in the correct extraction of computer equipment and information located on hard drives, virtual drives, etc.;
- assistance in inspecting the functional part of the computer and external data carriers, as well as technical documentation, etc.;
- help in overcoming the computer information protection system and authentication of access to the computer or phone of a specific user, etc. [8].

In the case of the prospect of conducting a search of members of the OZH who are armed and can resist, it is necessary to think in advance about the participation in the search of additional forces and means. It is necessary to understand all approaches and exits from the object of search in order to prevent the escape of criminals. For this, a tactical search plan should be drawn up, taking into account all circumstances, including unforeseen ones. But before drawing up a plan, it is advisable to carefully study all the information related to the person who will be searched, the place where it will be conducted, and the objects of the search. As K.O. Chaplinsky rightly emphasizes, the assessment of information and the investigative situation is essential for the correct organization and planning of searches. Analysis of investigative practice shows that information of an orientation nature equips investigators with

knowledge that allows them to guess where the wanted objects are located, choose search methods, prepare the necessary equipment, determine the necessary composition of search participants (search team), distribute responsibilities between them, choose the right tactical techniques conduct and develop an operation plan that makes it possible to conduct searches with a minimum expenditure of resources, time, effort and energy [9, p. 130].

A number of scientists and practitioners focus attention on the need to observe security measures for persons who will participate in the search in proceedings related to the investigation of criminal offenses against property. For this purpose, the search must be carried out with the participation of special officers, as well as with the use of ammunition and special equipment. Means Coordination of the work of search groups, including in case of emergency situations, should be carried out by the headquarters, which analyzes and exchanges information from the search objects. In addition, during the search, it is necessary to ensure the availability and serviceability of technical means, because according to the rules of criminal procedural legislation, the course and results of the search are subject to mandatory recording [7].

All objects removed during the search must be concentrated in one place and left under constant supervision. At the same time, considerable attention must be paid to a thorough review of documents. In notebooks, notebooks, diaries, letters, you can find records, copies or originals of individual documents, photographs, which may contain information about the connections and acquaintances of criminals, as well as their lifestyle, etc. [9]. If it is planned to seize documents, the meaning of which the investigator cannot independently determine, a specialist of the appropriate profile should be invited (an accountant, a tax official, a specialist in the field of computer technologies, an expert in the field of construction, etc.). For the most part, working with documents requires the complex use of forensic tools and economic methods with the involvement of specialists of various profiles [10, p. 84].

The proposal of M.Y. is interesting. Kulik regarding the execution of the specified actions in the form of a «search-survey», during which not only the fact of seizing a specific object should be recorded in detail, but also describe in detail, photograph its location in relation to other objects discovered at the search site. In addition, measures should be taken to preserve the identified sources of evidence. In the author's opinion, although it is recommended to involve a relevant specialist to carry out these actions, the investigator himself must have a minimum of knowledge to understand the operation of a computer and save electronic information [11, p. 185].

V. M. Glybko, focusing on the review of the seized documents, emphasizes that the investigator must remember that the text and digital data of the primary and other documents cannot be erased or contain errors. If they are detected, the correction method is reversed. These methods are used depending on the form of the document in which the error is detected. Thus, in primary documents, accounting registers and reports created manually, errors are corrected manually, that is, by crossing out, while the correct text or number is indicated above the crossed out. Crossing out is carried out with one stroke so that the previous text or number can be read. The cancellation method involves drawing up an accounting certificate, in which the necessary details are filled. Correction of the parcel must be conditioned by certain records and signatures of the persons who signed this document. Corrections are not allowed in cash and bank documents. Here there is a special case of creating these documents [12, p. 6].

Therefore, among the procedural actions aimed at extracting material sources, the most common are inspection, search and temporary access to things and documents. Carrying out the specified procedural actions during the investigation of criminal offenses against property is accompanied by a number of difficulties of both a procedural and an organizational and tactical nature. Therefore, the possession of law enforcement agencies with information on the main techniques, methods and methods of conducting searches and temporary access to things and documents, as well as the specifics of criminal offenses of the specified type, will contribute to success.

#### References:

1. Pavlyk M.P. (2021) Rozsliduvannia zlochyniv u sferi nadannia posluh iz pratsevlashtuvannia za kordonom. dys. dok-ra filosofii (081 – Pravo). Natsionalna akademiia vnutrishnikh sprav, Kyiv, 2021. [in Ukrainian].

2. Palamarchuk L.P. (2005) Kryminalistychne zabezpechennia rozsliduvannia nezakonnoho vtruchannia v robotu elektronno-obchysliuvalnykh mashyn (kompiuteriv), system ta kompiuternykh merezh: avtoref. dys... na zdob. nauk. st. kand. yuryd. nauk (12.00.09) Akademiia prokuratury. Kyiv 2005. 21. [in Ukrainian].
3. Ptushkin D.A. (2018) Rozsliduvannia shakhraistva, vchynenoho shchodo obektiv nerukhomoho maina hromadian: dys. kand. yuryd. nauk (12.00.09) Dnipropetrovskiy derzhavnyi universytet vnutrishnikh sprav, Dnipro. 240. [in Ukrainian].
4. Pavlova N.V. (2008) Rozsliduvannia shakhraistva pry ukladanni tsyvilnopravovykh uhod shchodo vidchuzhennia zhytla: monohrafiia. Dnipropetrovsk: Dniprop. derzh. un-t vnutr. sprav. 176. [in Ukrainian].
5. Pavlova N.V. (2021) Shchodo vazhlyvosti dotrymanna prav i svobod osoby pid chas provedennia obshuku pry rozsliduvanni kryminalnykh pravoporushen, uchynenykh shliakhom shakhraistva. Naukovyi visnyk Dnipropetrovskoho derzhavnogo universytetu vnutrishnikh sprav. № 1 (110). 278–284. [in Ukrainian].
6. Shcherbiuk Kh.V., Piadyshev V.H. (2016) Osoblyvosti vyluchennia kompiuternoï tekhniki pid chas provedennia obshuku. Aktualni zadachi ta dosiahnennia u haluzi kiberbezpeky: materialy vseukrainskoi naukovo-praktychnoi konferentsii. Kropyvnytskyi. 64-65. [in Ukrainian].
7. Korshun O.V. (2021) Teoretychni ta prakseolohichni zasady metodyky rozsliduvannia kryminalnykh pravoporushen u sferi nerukhomosti: dys. ... kand. yuryd. nauk (12.00.09) PrAT «Vyshchyi navchalnyi zaklad «Mizhrehionalna Akademiia upravlinnia personalom», Kyiv. 242. [in Ukrainian].
8. Reinhold A.V. (2019) Slidchi (rozshukovi) ta inshi protsesualni dii, spriamovani na vyluchennia materialnykh dzherel pry rozsliduvanni shakhraistv v internet-komertsii. Yurydychna nauka. № 5. 87–92. [in Ukrainian].
9. Chaplynskyi K.O. (2011) Taktychne zabezpechennia provedennia slidchykh dii: monohrafiia. Dnipropetrovsk: Dnipr. derzh. un-t vnutr. sprav; Lira LTD. 496. [in Ukrainian].
10. Popova I.M. (2011) Rozsliduvannia shakhraistv, poviazanykh iz zaluchenniam koshtiv hromadian na budivnytstvo zhytla: dys. ... kand. yuryd. nauk: (12.00.09) MVS Ukrainy, Nats. akad. vnutr. sprav. Kyiv. 250. [in Ukrainian].
11. Kulyk M.Y. (2015) Osoblyvosti provedennia obshuku (pry rozsliduvanni pryvlasnennia, roztraty maina abo zavoloddinnia nym shliakhom zlovzhyvannia sluzhbovym stanovyshchem. Mytna sprava. № 2 (98). 183–188. [in Ukrainian].
12. Hlibko V.M. (2016) Rol dokumentiv u rozsliduvanni zlochyniv. Teoriia i praktyka pravoznavstva. № 1 (9). 212–214. [in Ukrainian].

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