

CONTENT AND SIGNIFICANCE OF DIGITAL TRACES OF ILLEGAL ACQUISITION OF THE RIGHT TO LAND OF STATE OR COMMUNAL PROPERTY

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Annotation. The article is devoted to the definition of the content and significance of digital traces on the facts of illegal acquisition of the right to land of state or communal property. It is noted that the issues of the trace picture in general and such a variety of them as digital in particular on the facts of illegal acquisition of the right to land of state or communal property were left out of the proper attention of researchers. This makes it difficult/impossible to collect the required number of reflections sufficient for making informed decisions and implementing the tasks of criminal procedural legislation by authorized persons. In addition, attention is focused on the fact that modern research on digital traces can be characterized by the multidimensional nature of the problem with the search for ways to solve it.

The article emphasizes that traces of the exchange of information using messengers can demonstrate the content of correspondence about land plots in relation to which appropriate actions have been taken to obtain the right to them, to determine tasks (instructions) that should be evaluated from the point of view of preparation, direct commission and masking of illegal acts by the relevant participants.

It is argued that the implementation of an illegal plan to illegally acquire the right to land of state or communal property using electronic computing equipment is becoming more widespread, which necessitates due attention to the traces formed as a result of their commission. Accordingly, it is indicated that traces can be found on devices (computers, smartphones, disks, memory cards, etc.) of the offender, witnesses of relevant facts.

The conclusions note that the use of digital by authorized persons in conjunction with material and ideal traces will help minimize the commission of the investigated facts, which will improve the criminal situation in our country, demonstrate the appropriate level of counteraction to the manifestations under consideration, which in the conditions of Russia's armed aggression against Ukraine is becoming increasingly important and the request of society.

Key words: trace picture, digital traces, means of electronic communications, electronic devices, information exchange, electronic document, criminal offense, authorized person, illegal acquisition of law, land.

1. Introduction.

Among the main tasks facing law enforcement agencies of our state is the overcoming of crime in general and economic in particular, among which a significant place is occupied by manifestations of illegal acquisition of the right to land of state or communal property. This is due to the fact that the land is the main national wealth and is under special protection of the state, and these manifestations cause a corresponding resonance of Ukrainian society, attract the attention of law enforcement agencies. The effectiveness of the activities of the latter depends on both objective and subjective factors, in particular: gaps in legislation, lack of experience in the activities of employees of the relevant direction in general and in the current conditions of martial law in particular, the adoption by persons not interested in the investigation of measures to conceal, amend, destroy traces.

2. Analysis of scientific publications.

It should be noted that the issues of the mechanism of formation of traces and the possibilities of their use were paid attention to by a significant number of scientists, in particular: V.P. Bakhin, V.D. Bernaz, A. F. Volobuev, V.A. Zhuravel, A.V. Ishchenko, N.S. Karpov, A. N. Kolesnichenko, V.A. Konovalova, V.S. Kuzmichev, V.K. Lisichenko, V. G. Lukashevich, Ye/ D. Lukyanchikov, O. V. Oderiy, M. V. Saltevisky, R. L. Stepanyuk, V. V. Tishchenko, L. D. Udalova, P. V. Tsybal, K. A. Chaplinsky, Yu. M. Chernous, V. Yu. Shepitko et al.

At the same time, the issues of the trace picture in general and such a variety of them as digital in particular on the facts of illegal acquisition of the right to land of state or communal property were left out of the proper attention of researchers. This makes it difficult/impossible to collect the required number of reflections sufficient for making informed decisions and implementing the tasks of criminal procedural legislation by authorized persons.

We see a change in the situation in the need to pay attention to the investigated issue with the coverage of the key, in solving the relevant problems, positions of scientists, taking into account the facts of illegal acquisition of the right to land of state or communal property.

3. The aim of the work.

The article is aimed at determining the content and significance of digital traces on the facts of criminal offenses related to the illegal acquisition of the right to land of state or communal property.

4. Review and discussion.

Significant importance is gained by the expressed positions of scientists on the content of the trace picture. So, M.V. Saltevisky perceives the trace picture of the crime as a real material trace situation, reflecting and preserving various information about the crime and the person who committed it in this situation [1, p. 421].

In turn, V. A. Konovalova emphasizes that the trace picture of the crime is a set of traces that reflect the picture of the crime and the behavior of the criminal at the place of its commission [2, p. 25]. At the same time, traces can serve as a basis for a correct assessment of other components of the forensic characteristics of a criminal offense.

Other researchers attempt to detail the content of the element under consideration forensic characteristics. Thus, the trace picture, as emphasized by a number of scientists [3, p. 344; 4, p. 421], includes ideal reflections and material traces as sources of visible and invisible, predictable reflections formed at the time of committing a criminal offense.

At the same time, the conditions of digitalization of social relations in the world and Ukraine in particular, lead to an increasing spread of a set of virtual traces that require due attention from both scientists and practitioners. Accordingly, the existing, until recently, in forensic science, the division of traces into material and ideal, taking into account the realities of the present, is supplemented by digital reflections. At the same time, modern research on digital traces can be characterized by the multidimensional nature of the problem with the search for ways to solve it. One of the variants of knowledge of the corresponding phenomenon is realized by scientists through the structuring of criteria, which become the basis for the formation of classifications.

Thus, E. S. Khizhnyak, studying the opinions of researchers, in particular A. Volevodza, emphasizes that the classification of virtual traces is based on such a criterion as their placement:

– traces on the hard disk (hard drive);

- traces on magnetic tape (streamers), optical disk (CD, DVD);
- traces in random access memory (RAM) of the computer;
- traces in RAM of peripheral devices (laser printer, for example);
- traces in RAM of computer communication devices and network devices;
- traces in conducting, radio-optical and other electromagnetic systems and communication networks [5, p. 305].

It should also be noted that digital traces can be formed as a result of texting, using instant messengers, e-mail, sharing photos, screenshots, using websites, online repositories (image hosting), etc.

Our position is confirmed by the opinions of other scientists. Yes, I am. Naidon emphasizes that the classification should contain the following electronic traces due to:

- origin: electronic information created by the computer in the process of its work; electronic information created in the process of human activity; derived electronic information generated by the computer based on user input, or vice versa, information generated from data generated by the computer system;
- form of presentation: information available for human perception; information presented as machine code [6, p. 305].

The position of such scientists as G.K. Avdeev and S.V. Storozhenko, who understand by digital traces:

- data of electronic correspondence, with which you can set the date and time, address of the sender, etc.;
- actions on various sites (Facebook, Twitter, etc.) that leave electronic traces in the form of messages, search queries, photographs, etc. [7, p. 171].

A similar position on the traces of committing cybercrime is expressed by N. M. Akhtyrskaya, who details the possibilities of using cyberspace as an environment for the implementation of communications and the implementation of social relations, communication systems and the provision of electronic communications using the Internet or other global data networks [8, p. 138].

The positions given by scientists demonstrate a set of information that allows us to classify electronic traces according to various criteria. At the same time, such components as: - the procedural status of the participant - the role performed within the framework of the committed criminal offense (tasks, goals pursued, purpose, etc.), which have significant forensic significance, were left out of the researchers' attention. This list is not exhaustive and may, depending on each individual criminal offense, be expanded. In addition, depending on the methods used, certain traces can occupy both key and secondary importance in their detection and use on the facts of criminal offenses of the category under consideration. A set of electronic information classified by scientists to some extent reflects a significant number of circumstances demonstrating both the mechanism of formation of digital traces and their storage. This necessitates the possession by authorized persons of relevant knowledge with an appropriate level of their use in the search for digital traces of the facts of illegal acquisition of the right to land of state or communal property.

The opinion of E. S. Khizhnyak, who determines that in addition to the domain, as the main attribute of an electronic document posted on the Internet, the URL of a web page, which is always individual, also acquires significant importance, therefore it is used as one of the ways to identify a web page where electronic materials that are important for investigation are placed [9, p. 83]. This position, on the one hand, demonstrates the processes of information exchange using electronic means, and on the other - the possibility of obtaining significant information, including the origin/transfer (place, time, used electronic devices) of the relevant documents.

It should be noted that according to Art. 7 of the Law of Ukraine "On Electronic Documents and Electronic Document Management," an original electronic document is an electronic copy of the

document with mandatory details, including the author's electronic signature. An electronic copy of an electronic document is certified in the manner prescribed by law, and a copy of a document on paper for an electronic document is a visual representation of an electronic document on paper, certified in the manner prescribed by law [10].

In turn, paragraph 3 of Article 99 of the CPC of Ukraine determines that the original document is the document itself, and the original electronic document is its reflection, which is given the same meaning as the document [11].

The above allows us to determine that electronic information copied to the media can be recognized as proper and admissible evidence in criminal proceedings.

At the same time, this must meet a number of criteria. Thus, A. Bugay, emphasizes the need to confirm the integrity and immutability of electronic information, which is obtained by copying and provided as evidence in criminal proceedings, if it is overwritten by other media [12].

The implementation of the above is possible by documentary evidence of feasible copying with subsequent comparison of the original and the copy. This will provide an opportunity to evaluate the relevant electronic information from the point of view of the evidence belonging to the confirmation of the relevant fact that is important for criminal proceedings.

No less important is the possibility of remote access to relevant information, which allows it to create/correct, restrict unauthorized familiarization with the content and determine the belonging of the relevant subjects to it. The means and measures to restrict access to data, electronic traces on the use of passwords, encryption, their destruction in case of improper authorization actions, etc., are directed by offenders both to minimize the possibility of prosecution and the subsequent commission of unlawful intentions. In addition, these persons can apply measures as unauthorized access to information in order to implement an illegal plan in the illegal possession of land, and collected by law enforcement officers on the facts under consideration data for the purpose of distortion, destruction of information available in criminal proceedings [13, p. 222], that is, the implementation of measures to counter pre-trial investigation.

It should be noted that the means of digital communication are of great importance in the exchange of information. Materials of criminal proceedings determine that offenders contacted each other in 87% of cases using technical means of electronic communication, 53% - personally. The above information determines the significant spread of the use of LCD means of communication.

It should be noted that the technical means of electronic communications - equipment, including with the installed software, station and line structures, are intended for the organization of electronic communication networks [14], from the use of which is provided in particular and cellular communication.

This led to the formation of digital traces in the phone's memory, SIM-card, in the form of: connections (incoming-outgoing calls), messages that are recorded and stored by mobile operators, whose subscribers are the corresponding users.

At the same time, telecom operators, when using telecommunication networks by criminals, in 100% of cases there are traces in the form of information related to the initial data of the number from which the offender made the call, and the input information of the number of the person who received the message [15, p. 346].

Separate value acquire and traces of exchange of information using messengers. These data can demonstrate the content of correspondence about land plots, in relation to which appropriate actions have been taken to obtain the right to them, to determine tasks (instructions) that can be evaluated as preparation, direct commission and disguise of unlawful acts to the corresponding participant.

Special attention is also needed to the results of the survey of authorized persons who have determined that the location of land plots for which illegal acquisition is planned or carried out is fixed in different ways can be in the form of:

– defined in notebooks (notes, messages), the file system of the corresponding electronic means (folders, files) addresses, coordinates for placement, area, purpose and possibilities of use in the relevant intentions of the land plot, contacts of accomplices, customers, accounting for transactions and accounting, which 91% of respondents emphasized;

– photos taken from the satellite, or using google maps, on which control points are marked, GPS coordinates - 61%;

– a plot of land allocated with markers on an electronic map for which illegal acquisition has already been carried out or is planned - 57%.

These and other traces can be found on devices (computers, smartphones, disks, memory cards, etc.) of the offender, witnesses of relevant facts.

At the same time, it is advisable to detect traces in full, avoiding premature conclusions about the identification significance of traces [16, p. 111].

Search, even fragmentary data, will determine the need to explain the relevant facts by specific actors, and in addition can serve as the basis for the construction and verification of versions, outlining the areas of investigation, determining the circle of accomplices and the role of each of them, finding out the number of already committed and planned criminal offenses, including the search for such and other facts of illegal activity that have not yet been identified.

The totality of all forms of reflection determines the possibility of obtaining a full-fledged trace picture with the formation of an educated assumption about the circumstances of the committed criminal offense and other components of the information model, the search for their components that have not yet been established. At the same time, the positions given by scientists, for the most part, are inherent in criminal offenses committed using cyber space. However, the implementation of the illegal plan to illegally acquire the right to land of state or communal property using electronic computing equipment is becoming more widespread, which necessitates due attention to the formed traces.

We do not reduce the importance of both material and ideal traces in the formation of a holistic picture of criminal offenses in general and the categories studied in particular. Therefore, the activities of authorized persons require a comprehensive approach to identifying all reflections on the facts of illegal acquisition of the right to land of state or communal property, which will contribute to their timely identification and provision of legal assessment of the actions of offenders.

5. Conclusions.

All this allows us to emphasize that the identification of digital traces of the facts of illegal acquisition of the right to land of state or communal property requires increasing attention from both scientists and practitioners. The following digital traces may be found on the devices (computers, smartphones, disks, memory cards, etc.) of the offender, witnesses of relevant facts: plots of land marked with markers on the electronic map for which illegal acquisition has already been carried out or is planned; photos taken from the satellite, or using google maps, which can be marked control points, GPS coordinates; defined in notebooks (notes, messages), the file system of the corresponding electronic means (folders, files) addresses, coordinates for placement, area, purpose and possibilities of use in the relevant intentions of the land plot, contacts of accomplices, customers, accounting transactions and accounting, etc.

Our further research will be aimed at considering the significance of material and ideal traces in identifying, collecting in legal assessment of the facts of illegal acquisition of the right to land of state or communal property.

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