

UDC 343.98

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Kryvun, Serhii (2024). Features of document examination during the investigation of misappropriation of budget funds. *Entrepreneurship, Economy and Law*, 2, 85–89, doi <https://doi.org/10.32849/2663-5313/2024.2.14>

FEATURES OF DOCUMENT EXAMINATION DURING THE INVESTIGATION OF MISAPPROPRIATION OF BUDGET FUNDS

Abstract. Purpose. The purpose of the article is to highlight the peculiarities of document examination during the investigation of misappropriation of budget funds. **Results.** This scholarly article outlines the specific aspects of document examination in the context of investigating the misappropriation of budgetary funds. It is substantiated that investigative (search) actions aimed at identifying, seizing, and recording forensically relevant information about the circumstances of the criminal offense are of critical importance, as such documents subsequently become the subject of forensic examination. The examination of primary documents is fundamental in investigations involving budgetary offenses. It enables investigators to trace the flow of funds, identify discrepancies, and gather evidence of fraudulent activities. The paper analyzes the views of scholars and current legislation, defining the role and significance of this particular investigative (search) action in the pre-trial investigation of criminal offenses related to violations of budgetary legislation. A list of documents that may indicate the commission of a criminal offense is provided, along with their classification based on various criteria. Particular emphasis is placed on primary documents, the examination of which allows for the establishment of the actual movement of funds, compliance of expenditures with their intended purpose, the presence or absence of procurement procedure violations, actual completion of works or provision of services, and discrepancies between documentary records and the actual use of funds. These are key to proving the objective elements of the offense. The involvement of specialists in the document examination process and their functional role are also emphasized. **Conclusions.** The article concludes that the examination of primary documents is foundational in the investigation of criminal offenses related to the use of budgetary funds. It enables investigators to trace the financial flow, detect inconsistencies, and gather evidence of fraudulent activities. Without a thorough review of the relevant documents, it would be nearly impossible to establish a clear picture of how public funds are allocated and spent. Additionally, it is important to consider that during document examination, the investigator may identify individuals involved in the commission of the criminal offense. By analyzing primary documentation, the investigator may identify those who signed the documents, authorized payments, or received funds. All of this directly facilitates the identification of individuals involved in the illicit scheme and helps determine their roles in the committed criminal offense.

Key words: budget funds, pre-trial investigation, investigative (search) actions, budgetary offenses, examination, documents, specialized knowledge, criminal proceedings.

1. Introduction

The generalization of materials related to criminal offenses involving violations of budgetary legislation is invariably linked to documentation; without it, it is impossible to prove the misappropriation of budget funds. Therefore, investigative (search) actions aimed at identifying, seizing, and recording forensically significant information concerning the circumstances of the criminal offense gain particular importance. These documents subsequently become the subject of forensic examination.

The foundation of this scholarly article comprises academic contributions focused on the study of investigative (search) actions and the methodology of investigating economic criminal offenses. Among the key contributors to the field are K.V. Antonov, H.S. Bidniak, V.I. Vasylichuk, A.F. Volobuiev, I.V. Hora, V.V. Darahan, O.O. Dudorov, O.H. Kalman, N.I. Klymenko, Ye.D. Lukianchikov, H.A. Matusovskyi, I.V. Pyroh, O.V. Pchelina, M.V. Saltevsykyi, R.L. Stepaniuk, V.V. Tishchenko, K.O. Chaplynskyi,

S.S. Cherniavskiy, Yu.M. Chornohus, V.Yu. Shepityko, M.H. Shcherbakovskiy, P.V. Tsymbal, and others. At the same time, the research conducted in this area requires updates and refinement to meet the current conditions and challenges.

The purpose of this article is to highlight the specific features of document examination during the investigation of the misappropriation of budgetary funds.

2. Specifics of Examining Primary Documents During Criminal Investigations

In forensic literature, an examination is defined as an investigative (search) action during which the investigator directly studies objects in order to detect traces of a criminal offense, evidence, and circumstances relevant to the criminal proceeding (Klymenko, 2005). At the same time, procedural legislation stipulates that the investigator or prosecutor conducts an examination of the area, premises, objects, documents, and computer data with the purpose of identifying and recording information regarding the circumstances of the commission of a criminal offense (Article 237 of the Criminal Procedure Code of Ukraine, 2012).

Among the various types of examinations conducted in criminal proceedings concerning the misappropriation of budget funds, the examination of documents holds particular significance. An analysis of judicial and investigative practice shows that document examinations were conducted in 64.8% of such cases.

When considering a document as a source of evidence, V.M. Ishchenko defines it as a material object that, in a recorded form, directly reflects information about events and facts of criminal procedural relevance. This information is conveyed through signs readable by a person (either independently or with the aid of technical means), allowing for unambiguous reproduction in the form of images or spoken language, as well as the communication and interpretation of human thought. Such a document must be composed by a specific person, enterprise, institution, or organization; obtained in accordance with the established procedure by investigative authorities or the court; and attached to the materials of the criminal proceeding (Ishchenko, 1997).

Undoubtedly, during the investigation of criminal offenses involving violations of budget legislation, documents such as invoices, financial statements, certificates of completed work, cost estimates, contracts, technical documentation, letters, emails, and messages may confirm the execution of certain business transactions that either never occurred or were carried out on a much

smaller scale. These and other documents are often used to conceal the unlawful use of funds and to create the appearance of legitimate economic activity.

R.L. Stepaniuk draws attention to the classification of documents, noting that based on their criminal procedural significance, documents can be divided into two groups. The first group includes documents that are relevant to criminal proceedings due to the information contained in their content. These are referred to as written or independent pieces of evidence. The second group consists of documents considered material evidence, i.e., documents that served as instruments of the crime, were objects of criminal actions, bear traces of the offense, or serve as tools for solving the crime, identifying the perpetrator, or exonerating the innocent.

Furthermore, based on the informational significance of certain documents for investigating budget-related crimes, the scholar identifies the following categories:

1. Normative legal acts that define the rules for the formation, distribution, and use of budget funds;
2. Planning documents outlining the grounds for granting, the volume, distribution, and designated purpose of budget funds;
3. Documents defining the official status and authority of the public official involved in the offense (appointment orders, regulations on relevant departments or positions, professional qualification characteristics, job descriptions, etc.);
4. Documents establishing the legal status and sources of funding for the enterprise, institution, or organization where the offense was committed (charters of institutions, organizational statutes, main agreements, provisions on institutional activities approved by relevant governmental or local self-government bodies, and provisions on state or local budgetary or extra-budgetary funds);
5. Accounting and financial reporting documents that are of crucial importance for the investigation and may contain traces of unlawful conduct;
6. Documents evidencing the conclusion of contracts and serving as grounds for their payment;
7. Treasury (banking) documents;
8. Documents related to transactions involving treasury bills;
9. Draft records and unofficial correspondence of officials that are relevant to criminal proceedings (workbooks, notebooks, etc.);
10. Normative or administrative acts issued by an official or approved by order that

alter the revenue and expenditure of the budget contrary to the procedure established by law;

11. Documents concerning the adoption and registration of normative or administrative acts;

12. Other documents that may serve as sources of evidentiary information (Stepaniuk, 2004).

We fully agree with the scholarly contributions of the cited researchers; however, in our opinion, particular attention should be paid to the necessity of conducting such an investigative (search) action as the examination of primary documents during the investigation of criminal proceedings—especially those related to the misappropriation of budgetary funds. This action is indispensable for understanding the very process of committing the offense and the schemes employed by perpetrators to carry out unlawful activities.

As criminalistics experts note, document examination in the context of uncovering budget-related criminal offenses is not considered a priority investigative (search) action. By the time it is conducted, investigators and operative officers already possess sufficient information regarding the type of examination to be performed and the experts that need to be involved (Bidniak, Bidniak, Chaplynskyi, 2021). Typically, such an examination is carried out when a large volume of documents has been seized during a search, and, due to objective circumstances, it was not possible to record their content in the search protocol immediately. It may also be required to reassess the content of documents seized through temporary access to items and documents or during one or more searches (Prykhodko, 2023).

The examination, as an independent investigative (search) action, must be conducted in two specific cases: a) in relation to documents—written evidence—that were seized during a crime scene examination, temporary access to items and documents, or a search, but were not examined at the time of seizure; b) in relation to all documents classified as physical evidence, as current legislation stipulates that “physical evidence must be carefully examined, photographed if possible, thoroughly described in the examination report, and attached to the case file by a resolution of the inquiry officer, investigator, prosecutor, or a court ruling” (Stepaniuk, 2004).

It is essential to understand that primary documents directly reflect the business transactions carried out using budgetary funds. During their examination, investigators are afforded the opportunity to trace the actual

flow of funds, determine whether expenditures were consistent with their designated purpose, identify the presence or absence of procurement procedure violations, and assess the factual performance of works or services. By examining the documents, investigators can conduct an analytical assessment, which enables the identification of discrepancies between the documented records and the actual use of funds—an essential element in proving the *actus reus* (objective element) of the criminal offense.

3. Specific Features of Document Examination

The examination of documents, like any other investigative (search) action, is carried out in three stages: preparatory, operational, and final. The preparatory stage begins from the moment a decision is made to conduct the investigative (search) action (Chaplynskyi, Luskatov, Pyrih, Pletenets, Chaplynska, 2014). The effectiveness of the document examination depends on the fixation of various elements, including:

1. key requisites of the document (the addressee, place, date, and issuer);
2. characteristics of the material (color and method of production);
3. detailed analysis of the content;
4. identification features (form number, watermarks, serial number, seals, stamps);
5. presence of corrections, erasures, damage, deletions;
6. method of completing the document (handwritten or typed);
7. color of inks used;
8. presence of signatures (Zapototskyi, 2017).

K. O. Chaplynskyi emphasizes the need to establish and record the following characteristics during document examination:

– **Content-based individualizing features:** title, requisites, presence of signatures, seals and stamps, serial number and date of issuance, opening and closing words, brief summary;

– **Form-based individualizing features:** types of notations (words, numbers, graphics), method of producing text (handwritten, typewritten, printed);

– **Material-based features:** type of material, color, dimensions, density, damage patterns, signs of restoration or tampering;

– **Indicators of forgery:** erasures, insertions, corrections, etching, ink removal, copying, substitution of photos or parts of the document;

– **Links to the criminal act:** any other properties that connect the document to the criminal event (Chaplynskyi, 2006).

The examination may involve the participation of the victim, suspect, defense

attorney, legal representative, and other parties to the criminal proceeding. To address issues requiring specialized knowledge, the investigator or prosecutor may invite relevant experts to participate (Criminal Procedure Code of Ukraine, 2012).

Since the examination of primary documents may reveal signs of forgery, fictitious transactions, inflated prices, embezzlement, or other unlawful actions, it is advisable for the investigator to involve an expert during the examination. The expert can guide the investigator to focus on relevant documents instead of reviewing all available materials at the enterprise, institution, or organization.

According to H. S. Bidniak, it is advisable to involve professionals with specific expertise, such as commodity experts, auditors, and others, during the document examination. These specialists may also use various tools (e.g., portable microscopes, magnifiers, illuminators) and methods of examination that do not alter or damage the document (Bidniak, 2016).

The specialist also plays a crucial role in examining electronic documentation, particularly focusing on user work logs, which often contain codes, passwords, and other valuable information (Prykhodko, 2023).

Involving a specialist at this stage contributes to better preparation for the subsequent appointment of necessary expert examinations, such as forensic economic, forensic accounting, or forensic construction analyses. Primary documents serve as the basis for calculating the amount of damage caused to the state as a result of the misappropriation of budgetary funds. These documents are later submitted to the relevant expert institutions for conducting the aforementioned examinations. Specifically, the precise calculation of damages is essential for the proper legal qualification of the offense and for filing a civil claim to seek compensation for the harm caused.

4. Conclusions

In conclusion, the examination of primary documents is fundamental in the investigation of criminal offenses related to the use of budgetary funds. It enables investigators to trace the flow of funds, identify inconsistencies, and collect evidence of fraudulent activities. Without a thorough review of the relevant documents, it would be nearly impossible to gain a clear understanding of how budgetary funds are allocated and spent.

Furthermore, it is essential to consider that during the examination of documents, the investigator also has the opportunity to identify individuals involved in the commission of the criminal offense. By analyzing primary documents, the investigator can determine who signed the documents, authorized payments, or

received funds. This, in turn, makes it possible to establish the range of individuals involved in the unlawful scheme and define their respective roles in the commission of the offense.

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ОСОБЛИВОСТІ ОГЛЯДУ ДОКУМЕНТІВ ПІД ЧАС РОЗСЛІДУВАННЯ НЕЦІЛЬОВОГО ВИКОРИСТАННЯ БЮДЖЕТНИХ КОШТІВ

Анотація. *Метою* статті є висвітлення особливостей проведення огляду документів під час розслідування нецільового використання бюджетних коштів. *Результати.* У науковій статті висвітлено особливості огляду документів під час розслідування нецільового використання бюджетних коштів. Доведено, що важливого значення набувають слідчі (розшукові) дії, направлені на їх виявлення, вилучення, а також фіксацію криміналістично значущої інформації про обставини вчинення кримінального правопорушення, і які в подальшому стають об'єктами дослідження судових експертів. Огляд первинних документів є основоположним у розслідуванні правопорушень, пов'язаних з бюджетними коштами. Це дозволяє слідчим простежити потік коштів, виявляти розбіжності та збирати докази шахрайської діяльності. Проаналізовано думки вчених та чинне законодавство, визначено роль та значення окресленої слідчої (розшукової) дії для досудового розслідування кримінальних правопорушень, пов'язаних із порушенням бюджетного законодавства. Надано перелік документів, які можуть свідчити про вчинення кримінального правопорушення, наведено їхню класифікацію за різними підставами. Акцентовано на первинних документах, оглядом яких можливо встановити фактичний рух коштів, відповідність витрат цільовому призначенню, наявність чи відсутність порушень процедур закупівель, фактичне виконання робіт чи надання послуг, а також виявити розбіжності між документальним оформленням та фактичним використанням коштів, що є ключовим для доведення об'єктивної сторони правопорушення. Наголошено на залученні спеціалістів для проведення огляду документів та їх функціональній складовій. **Висновки.** Зроблено висновок, що огляд первинних документів є основоположним у розслідуванні кримінальних правопорушень, пов'язаних із використанням бюджетних коштів. Це дозволяє слідчим простежити потік коштів, виявляти розбіжності та збирати докази шахрайської діяльності. Без ретельного вивчення відповідних документів було б майже неможливо встановити чітку картину про те, як виділяються та витрачаються бюджетні кошти. Окрім цього, необхідно враховувати, що під час огляду документів, слідчий має також можливість виявити коло осіб, причетних до вчиненого кримінального правопорушення. Аналізуючи первинні документи, слідчий може виявити осіб, які підписували документи, здійснювали платежі, отримували кошти. Все це безпосередньо дає змогу встановити коло осіб, причетних до протиправної схеми, та визначити їх роль у вчиненому кримінальному правопорушенні.

Ключові слова: бюджетні кошти, досудове розслідування, слідчі (розшукові) дії, бюджетні правопорушення, огляд, документи, спеціальні знання, кримінальне провадження.

The article was submitted 11.11.2024

The article was revised 03.12.2024

The article was accepted 23.12.2024