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PRAXEOLOGICAL FRAMEWORK FOR FORMING METHODOLOGY FOR INVESTIGATING CRIMES COMMITTED BY TRANSNATIONAL ORGANISED CRIMINAL GROUPS

Abstract. Purpose. The purpose of the article is to study the praxeological framework for forming the methodology for investigating crimes committed by transnational organised criminal groups. **Results.** The article studies some aspects of investigating crimes committed by transnational organised criminal groups. The author emphasises that the methodology for investigating certain types of criminal offences is of great practical importance, as each of them provides specific practical recommendations on most aspects of criminal proceedings. In particular, it provides relevant algorithms for the actions of authorised persons in accordance with typical investigative situations, specifies the specific features of certain investigative (search) actions, covert investigative (search) actions and other search activities during the investigation of a specific illegal act or a group of them. It is stated that the methodology for investigating crimes committed by transnational organised criminal groups does not lose its practical significance, and even vice versa, only increases it, since its formation will provide recommendations for various categories of criminal proceedings. **Conclusions.** The key elements of the category under study are identified, namely: criminalistic description of crimes committed by transnational organised criminal groups; collection and analysis of primary data and entering information into the Unified Register of Pre-trial Investigations; circumstances to be clarified during the investigation; typical investigative situations and the corresponding algorithms of actions of authorised persons; and specific features of interaction between individual law enforcement units; prevention by authorised persons to eliminate the causes and conditions that contributed to the commission of an unlawful act; organisational and tactical aspects of procedural actions and other measures at the initial and subsequent phases of criminal proceedings; tactical operations; international cooperation measures used in the investigation of crimes committed by transnational organised criminal groups; specifics of international legal assistance in the course of investigation of a certain category of unlawful acts; specific features of the use of special knowledge in the category of criminal proceedings under study; activities of authorised persons at the final phase of criminal proceedings.

Key words: transnational organised criminal group, criminal offences, methodology, investigation, investigative (search) actions, investigation planning.

1. Introduction

The methodology for investigating certain types of criminal offences is of great practical importance, as each of them provides specific practical recommendations on most aspects of criminal proceedings. In particular, it provides relevant algorithms for the actions of authorised persons in accordance with typical investigative situations, specifies the specific features of certain investigative (search) actions, covert investigative (search) actions and other search activities during the investigation of a specific

illegal act or a group of them. The methodology for investigating crimes committed by transnational organised criminal groups does not lose its practical significance, and even vice versa, only increases it, since its formation will provide recommendations for various categories of criminal proceedings.

The following national scholars who have focused their research on the development of the methodology for investigating criminal offences should be noted: O.A. Antoniuk, V.P. Bakhin, P.D. Bilenchuk, V.M. Vartsaba,

H.P. Zharovska, N.S. Karpov, O.L. Kobylanskyi, M.V. Kostenko, O.V. Kuzmenko, A.V. Kofanov, A.M. Lazebnyi, B.S. Levytskyi, K.M. Marysiuk, P.Ya. Minka, Ye.K. Paniotov, V.S. Polianska, N.P. Sichko, K.O. Chaplynskyi, A.P. Sheremet, B.V. Shchur and others. In addition, our study is based on a comprehensive approach to formulating the scientific category, considering international practice and current trends.

The purpose of the article is to study the praxeological framework for forming the methodology for investigating crimes committed by transnational organised criminal groups.

2. Investigation of crimes committed by transnational organised crime groups

To begin with, it would be appropriate to refer to the statement of M.V. Kostenko, who argues that '...the specific features of the investigation of crimes committed by organised groups are, first of all, in solving specific tasks related to the establishment and proof of the signs of organisation of a criminal group. These are tactical tasks of the investigation, as they are intermediate on the way to solving the final (strategic) tasks of criminal proceedings, as defined in Article 2 of the CPC of Ukraine (Criminal Procedure Code of Ukraine, 2012). The concept of a tactical task of investigation performs an important function of structuring criminal proceedings, highlighting its individual intervals and focusing on them by the pre-trial investigation body'. In addition, the author has identified the tactical tasks of the investigation as follows: 1. A tactical task to establish the quantitative composition of a group of persons. 2. A tactical task to establish the stability of ties between group members. 3. A tactical task to establish a clear and unified plan of criminal activities known to all members of the group. 4. A tactical task to establish the distribution of functions of the group members aimed at implementing the plan of criminal activity (Kostenko, 2017). It is evident that the scientist has identified specific tasks that, in our opinion, should be solved by a specific set of various procedural actions and search activities.

Another interesting opinion is that of B.V. Shchur, who argues that a specific feature of the structure of an organised criminal group is the presence of special persons (groups of persons, blocks) who are entrusted with the function of protection from exposing the activities of a criminal group (persons ensuring discipline; persecuting persons trying to stop criminal activity; maintaining links with corrupt representatives of the authorities, etc.) The researcher emphasises that the specificity

of their activities is that the defence mechanism is laid down from the moment of formation of the organised group (for example, strict secrecy of the group's functioning) (Shchur, 2005). In other words, transnational organised criminal groups use this mechanism to counteract the investigation of their crimes, which necessitates the creation of an effective methodology for their investigation.

According to V.M. Vartsaba, the activities of organised criminal groups are characterised by a certain succession of unlawful acts, the use of complex methods of committing them, and the use of criminal technologies. The author states that in the mechanism of organised criminal activity, a special place is assigned to corrupt relations with employees of authorities and law enforcement bodies. From the criminalistic perspective, a forensic scientist notes that this refers to corrupt ties between representatives of authorities (including law enforcement bodies) and criminals, and to the interaction of authorities and management officials with leaders (or members) of organised criminal groups. The scholar underlines that this interaction involves various illegal forms, in particular, it can be either bribery (one-time or repeated bribery) of officials to resolve issues related to the legal or illegal 'business' of a criminal group, or involvement (drag) of officials in a joint 'business'. In addition, V. Vartsaba drew attention to the processes associated with the politicisation of organised crime (Vartsaba, 2003). In other words, the author identifies such characteristic features of transnational organised criminal groups as corrupt ties with employees of authorities and law enforcement bodies, as well as politicisation of organised criminal activity, which directly complicates the process of investigating crimes committed by them.

As mentioned above, scholars currently have ongoing disputes regarding the concept and structure of the methodology for investigating certain groups of criminal offences. For example, a group of authors defines it as an independent section of criminalistics that includes scientific provisions, recommendations and methods of investigation of certain types of crimes based on the requirements of criminal procedure legislation. Regarding its structure, criminologists argue that for each type of unlawful act some structural schemes and algorithms of activity are suitable for investigating any other type of crime, and these elements are called the structure of a particular methodology. To sum up, the researchers include the following main elements: "... criminalistic characteristics of a certain type of crime; circumstances to be established; specific features

of criminal proceedings; priority investigative actions, search operations; typical investigative situations, typical versions and planning; tactics of certain investigative actions; preventive actions of the investigator" (Bilenchuk, Hel, Semakov, 2007).

The list of components proposed by V. Maliuha is quite appropriate, stressing that "researchers rightly consider the regularities of organisation and planning of the investigation; forensic features of verification of information about the crime and opening of criminal proceedings; investigative versions, circumstances to be clarified, preventive activities of the investigator, as well as the use of special knowledge and other issues to be the structural elements of the methodology for investigating certain types of crimes. Obviously, depending on the type of crime, one or another element of the methodology for investigating certain types of crimes will be of greater or lesser practical importance, but it should be a certain system of developed recommendations that are important for the investigation of crimes. Individual investigative techniques, in one way or another, should cover the following main sections (constituent elements): criminalistic description of the relevant type of crime; typical investigative situations at the stage of detection of a crime and the stages of its investigation; criminalistic issues of commencing criminal proceedings; regularities of organising and planning an investigation; investigative versions, circumstances to be clarified; algorithm of investigative (search) actions and operative-search measures, determined by the tasks of typical investigative situations; particularities of conducting individual investigative (search) actions and their systems (tactical operations); coordination of law enforcement bodies in the investigation and specific features of interaction between the investigator and operational units, supervisory and other state bodies, associations of citizens, etc." (Maliuha, 2015).

3. Methodology of investigation of certain types of criminal offences

According to M.M. Yefimov, the definition of the methodology of investigation of certain types of criminal offences is a system of scientific provisions, as well as methodological and practical recommendations for the investigation of certain types and groups of criminal offences developed on their basis. In addition, the scholar argues that changes in criminal procedure and criminal law, as well as the overall reform of the law enforcement system of Ukraine, have led to appropriate changes in the methodology of investigation of certain types of unlawful acts, namely,

the author identifies the following structural elements of the scientific category under study: "... criminalistic description of crimes; analysis of initial information and commencement of criminal proceedings; circumstances to be proved in criminal proceedings; typical investigative situations of investigation; specific features of initial investigative (search) actions, covert investigative (search) actions and other measures; specific features of further investigative (search) actions, covert investigative (search) actions and other measures; specific features of the use of specialised knowledge during the investigation of a criminal offence; preventive activities of the investigator regarding the causes and conditions that contributed to the commission of a criminal offence; specific features of the investigator's activities at the final stage of the investigation" (Yefimov, 2018).

In A.P. Sheremet's opinion, the investigation methodology is interconnected with these two areas (practical and theoretical), namely, the process of investigation of unlawful acts and the section of the criminalistic science, which contains a system of comprehensive forensic recommendations for the detection, investigation and prevention of certain types of criminal offences. Given the above, the researcher correctly concludes that the scientific category under study manifests its purpose by contributing to the development of scientific recommendations and their implementation in the practice of crime investigation. With regard to the structure of the methodology for investigating a particular type of unlawful act, the author identifies the following structural elements: "... criminalistic description of this type of offence; circumstances to be established; specific features of criminal proceedings; priority investigative actions and operative-search measures; typical investigative situations, typical versions and planning; tactics of certain investigative actions; preventive investigative actions" (Sheremet, 2009).

With regard to the structure of certain categories of methodologies for investigating criminal offences, we consider interesting the one provided by O.V. Kuzmenko and N.P. Sichko on the investigation of collaboration, stating that "...first, the construction of any individual criminalistic methodology should be united on a legal, scientific and information-practical basis. Second, the structure of the methodology for investigating collaboration should include: 1) criminalistic description; 2) circumstances to be proved; 3) versions of investigation; 4) separate investigative (search) actions and operative-search measures" (Kuzmenko, Sichko, 2022).

For example, O.A. Antoniuk identifies the following elements of the methodology for investigating criminal offences against public order, namely: "...criminalistic description; verification of initial information and entering information into the URPI; circumstances to be established in criminal proceedings; typical investigative situations; specifics of interaction between different law enforcement units; specific features of procedural actions and other measures of the initial and subsequent stages of investigation; specifics of applying specialised knowledge during the investigation; activities of authorised persons to eliminate the causes and conditions that contributed to the commission of the offence; specifics of activities of authorised persons at the final stage of investigation" (Antoniuk, 2019).

With regard to the methodology of investigation of unlawful acts committed by organised crime, for example, V.M. Vartsaba identifies the following elements: structure and psychological mechanism of functioning of organised criminal groups; criminalistic description of crimes committed by organised criminal groups; detection of signs of an organised group committing an offence; planning of investigation and putting forward versions; specific tactics of certain investigative (search) actions (inspection of the scene, interrogation, search); specifics of the use of specialised knowledge; formation and use of tactical systems (operations) (Vartsaba, 2003).

According to K.O. Chaplynskyi, the following components in this structure can be considered: criminalistic analysis of organised crime: concepts and signs; concept, types and place of organised criminal groups in the structure of organised crime; criminalistic description of the leader and other members of organised criminal groups; organisation and tactics of investigative (search) actions to extract information from material objects; organisation and tactics of investigative (search) actions to obtain information from personal sources (Chaplynskyi, 2004).

In conclusion, a group of scholars argues that the methodology of investigating transnational crimes includes components such as: "...group methods of investigating crimes, the characteristic feature of the criminalistic description thereof is the presence of a foreign element; individual methods of investigating crimes, the characteristic feature of the criminalistic description thereof is the presence of a foreign element" (Bilenchuk, Kofanov, Kobylanskyi, Paniotov, 2011). It is obvious that in most cases, some elements are repeated, but in general, there is a stable list of them.

The analysis of the materials of forensic and investigative practice, as well as the study

of scientific works by a number of criminalists, has enabled to identify the main elements of the methodology for investigating crimes committed by transnational organised criminal groups, as follows:

- Criminalistic description of crimes committed by transnational organised criminal groups;
- Collection and analysis of primary data and entering information into the Unified Register of Pre-trial Investigations;
- Circumstances to be clarified during the investigation;
- Typical investigative situations and the corresponding algorithms of actions of authorised persons;
- Specific features of interaction between individual law enforcement units;
- Prevention by authorised persons to eliminate the causes and conditions that contributed to the commission of an unlawful act;
- Organisational and tactical aspects of procedural actions and other measures at the initial and subsequent phases of criminal proceedings;
- Tactical operations;
- International cooperation measures used in the investigation of crimes committed by transnational organised criminal groups;
- Specifics of international legal assistance in the course of investigation of a certain category of unlawful acts;
- Specific features of the use of special knowledge in the category of criminal proceedings under study;
- Activities of authorised persons at the final phase of criminal proceedings.

4. Conclusions

To sum up, it should be noted that the methodology for investigating certain types of criminal offences is of great practical importance, as each of them provides specific practical recommendations on most aspects of criminal proceedings. Its key elements are identified, namely: criminalistic description of crimes committed by transnational organised criminal groups; typical investigative situations and the corresponding algorithms of actions of authorised persons; prevention by authorised persons to eliminate the causes and conditions that contributed to the commission of an unlawful act; tactical operations; international cooperation measures used in the investigation of crimes committed by transnational organised criminal groups; specifics of international legal assistance in the course of investigation of a certain category of unlawful acts; specific features of the use of special knowledge in the category of criminal proceedings under study; activities of authorised persons at the final phase of criminal proceedings.

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ПРАКСЕОЛОГІЧНІ ЗАСАДИ ФОРМУВАННЯ МЕТОДИКИ РОЗСЛІДУВАННЯ ЗЛОЧИНІВ, УЧИНЕНИХ ТРАНСНАЦІОНАЛЬНИМИ ОРГАНІЗОВАНИМИ ЗЛОЧИННИМИ УГРУПОВАННЯМИ

Анотація. *Метою* статті є дослідження праксеологічних засад формування методики розслідування злочинів, учинених транснаціональними організованими злочинними угрупованнями. **Результати.** Наукова стаття присвячена дослідженню деяких аспектів розслідування злочинів, учинюваних транснаціональними організованими злочинними угрупованнями. Автор акцентує увагу на тому, що методика розслідування окремих видів кримінальних правопорушень має надзвичайно важливе практичне значення через те, що кожній з них надані конкретні практичні рекомендації по більшості аспектів кримінальних проваджень. Зокрема, надаються відповідні алгоритми дій уповноважених осіб відповідно до типових слідчих ситуацій, вказуються особливості проведення окремих слідчих (розшукових) дій, негласних слідчих (розшукових) дій та інших пошукових заходів під час розслідування певного протиправного діяння чи їх групи. Зазначено, що методика розслідування злочинів, учинених транснаціональними організованими злочинними угрупованнями, має дуже важливе практичне значення через формування рекомендацій для різних категорій кримінальних проваджень. **Висновки.** Виокремлено основні елементи досліджуваної категорії, а саме: криміналістична характеристика злочинів, учинених транснаціональними організованими злочинними угрупованнями; збір та аналіз первинних даних та внесення інформації до Єдиного

реєстру досудових розслідувань; обставини, які підлягають з'ясуванню під час розслідування; типові слідчі ситуації та відповідні їм алгоритми дій уповноважених осіб; особливості взаємодії окремих підрозділів правоохоронних органів; профілактична діяльність уповноважених осіб стосовно усунення причин і умов, які сприяли вчиненню протиправного діяння; організаційно-тактичні аспекти проведення процесуальних дій та інших заходів початкового та подальшого етапів кримінального провадження; тактичні операції; заходи міжнародного співробітництва, що застосовуються під час розслідування злочинів, вчинених транснаціональними організованими злочинними угрупованнями; специфіка міжнародно-правової допомоги під час розслідування визначеної категорії протиправних діянь; особливості використання спеціальних знань в досліджуваній категорії кримінальних проваджень; діяльність уповноважених осіб на заключному етапі кримінального провадження.

Ключові слова: транснаціональне організоване злочинне угруповання, кримінальні правопорушення, методика, розслідування, слідчі (розшукові) дії, планування розслідування.

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