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PREPARATORY STAGE OF SEARCH DURING INVESTIGATION OF CRIMES COMMITTED BY TRANSNATIONAL ORGANISED CRIMINAL GROUPS: PROBLEMATIC ISSUES

Abstract. Purpose. The purpose of the article is to formulate the organisational and preparatory measures for a search during investigation of crimes committed by transnational organised criminal groups. **Results.** The article focuses on some aspects of investigation of crimes committed by transnational organised criminal groups. Based on the literature review, the organisational and preparatory measures of the search are formulated and characterised. The author emphasises that the preparatory stage of a search plays an important role for its effective conduct. After all, successfully implemented organisational and preparatory measures will provide a range of conditions necessary for this. Among these measures, the following are identified and described: to complete and comprehensively study the criminal proceedings, to establish accurate information about the target of the search, to collect orientation information about members of the criminal group and its leader, to prepare scientific, technical and forensic means, to identify members of the investigative search team, to draw up a search plan. **Conclusions.** It is concluded that the following groups of objects should be seized during a search, namely: a) ones indicating the commission of criminal acts: objects used by the offender to commit illegal acts; the offender's clothing with traces of biological origin (blood, sperm, saliva); objects belonging to the victim; tools used to inflict bodily harm on the victim; b) ones evidencing possible locations of accomplices: locations of criminal groups in electronic computing equipment (tablets, smartphones, laptops, computers); information about public places where they mostly meet (restaurants, bars); personal letters; addresses of relatives and friends; c) ones describing the personality of the offender and the circle of his or her accomplices: information in electronic computing equipment (tablets, smartphones, laptops, computers); medical certificates; certificates of release from prison; workplace characteristics; d) evidencing the commission of other illegal acts by the offender: explosives; narcotic substances and precursors; cold steel and firearms.

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

1. Introduction

The preparatory stage of a search plays an important role for its effective conduct. After all, successfully implemented organisational and preparatory measures will provide a range of conditions necessary for this. For example, they are: determining the exact location of the search, forming an investigative team, providing the necessary specialists with all the necessary technical, forensic and other means to identify and seize evidence as fully as possible. Therefore, it has become necessary to investigate this issue.

The following national and foreign scholars who have focused their research on the development of certain aspects of the search should be noted: R.I. Blahuta, P.D. Bilenchuk,

M.B. Holovko, M.M. Yefimov, L. I. Kazmirenko, L. P. Kovtunencko, O. I. Motliakh, P. Ya. Minka, Ye.M. Moiseiev, I.P. Osypenko, Ye.V. Priakhin, J.R. Richards, Yu.I. Rusnak, R.I. Sybirna, O.V. Tsyhanenko, K.O. Chaplynskyi, O.V. Shvydkyi, V.Yu. Shepitko et al. In addition, our study is based on a comprehensive approach to formulating the general principles of implementation of this procedural action, considering international practice and current trends.

The purpose of the article is to formulate the organisational and preparatory measures for a search during investigation of crimes committed by transnational organised criminal groups.

2. General features of the search

Article 234(1) of the CPC of Ukraine provides that "...a search is conducted to identify

and record information about the circumstances of a criminal offence, to find the instrument of a criminal offence or property obtained as a result of its commission, and to establish the location of wanted persons" (Criminal Procedure Code of Ukraine, 2012).

We believe that the statement of M.Y. Minka and K.O. Chaplynskyi, who noted that they should be understood as "...information contained in the testimony of witnesses, victims, suspects, accused, in the records of investigative actions, statements of citizens, as well as obtained in the course of operative search activities" is the most correct. (Minka, Chaplynskyi, 2009). According to V.M. Pletenets, '... a search contributes to the identification of signs that shed light on the events that took place. This may include the emergence of new suspects and witnesses in the case, the construction of versions, the identification of new lines of search activities and the investigation of a criminal case, etc.' (Pletenets, 2012). In sum, all scientists in the field of criminalistics focus on both the information necessary for conducting a search and the data that can be obtained during the search.

In this context, the opinion of a group of scholars should be cited that "...each search is unique and individual, as it is determined by the specific circumstances of the case, the nature of the objects searched, the characteristics of the person searched, the specifics of the object to be searched and other circumstances of the criminal case. However, a number of general recommendations apply, compliance therewith helps the investigator obtain optimal search results" (Bilenchuka, 2001). That is, preparation for a search is manifested in the implementation of organisational and procedural measures.

Other researchers correctly emphasise that "...in general, a search involves the search for items that may be material evidence, which can be formed into certain typical groups of such items: tools and means of committing a crime: (firearms and cold steel weapons; items specially manufactured for committing crimes; items prohibited for possession or use or requiring a special permit (gas weapons, radioactive substances, drugs, etc.); items used in everyday life, production or other legal activities; vehicles); items that have retained traces of the crime (clothing or footwear of the person searched that has traces of blood, soil particles, grease stains, etc.); items obtained as a result of the crime (money or valuables that are the subject of a bribe; property belonging to the victim, etc.); other items that serve as a means of establishing the truth in the case (photographs, notebooks, computer floppy disks, etc.)" (Holovko, Osypenko, 2015).

According to D.A. Bondarenko, the measures of the preparatory stage of the search include, for example, the following: "...collection and analysis of the necessary information characterising the person being searched; place of search: address, floor plan, size and condition; arrangement of furniture (desks, stationery, safes); features of the searched documents or items; development of tactical plans: choosing the time of the search and the method of entering the searched premises; determining the circle and selection of search participants, distribution of responsibilities, briefing; ensuring the protection of the search site and the documents and items found, preparation of vehicles; providing the group with scientific and technical means, with due regard for the specifics of the search object, the searched subjects and other circumstances" (Bondarenko, 2009).

The most comprehensive list of measures of the preparatory stage for the search is provided by K.O. Chaplynskyi, which includes the following: "...study of criminal case files; collection of orientation information about: - the identity of the offender, as well as his family members, relatives and acquaintances; - all episodes of criminal activity; - places (objects) of searches; - tools (means) of crime and items obtained by criminal means and subject to search, etc.; analysis and assessment of the collected information and the investigative situation at a certain stage of the investigation before making a decision to conduct a search; making (adopting) a decision to conduct a search; planning and determining the time of the search; creating optimal conditions for conducting this investigative action; identification and preparation of the necessary scientific, technical and transport means; decision on the use of a detection dog; selection of the necessary participants for the search; determination of the method of recording the course and results of the search; development of measures providing for the actions of the search participants in case of unforeseen situations or complications; ensuring the safety of the participants in the investigative action; drawing up a search plan; holding an instructional meeting (briefing) among all participants in the investigative action" (Chaplynskyi, 2004).

In addition, it should be noted that transnational organised criminal groups currently overwhelmingly use e-banking to carry out all necessary transfers of funds. Therefore, we believe that it would be appropriate to refer to the thesis of J.R. Richards that new cyber payment systems offer the best qualities of traditional currency - ease of use, wide acceptance and anonymity - with additional features such as unlimited amounts, security, multinational

movement and what is known as 'transfer speed'. In other words, e-banking enables anyone to move billions of dollars anywhere in the world as quickly as bank transfers and computerised banking systems allow. A critical issue is whether e-banking should be completely anonymous and thus immune to traditional banking regulations and law enforcement (Richards, 1999). That is, the author raises the issue of anonymity of e-banking, which is a problem for law enforcement agencies in any country.

Moreover, we agree with the opinion of M.M. Yefimov regarding certain specific features of the search in criminal proceedings initiated on the basis of crimes against morality. In particular, the author stated that "...unlawful acts in the field of morality are characterised by specific trace characteristics. For example, unlike criminal offences against life and health, the range of traces at the scene in many cases may not be as extensive as, in particular, at the suspect's place of residence. In addition, according to our research, the ways of committing the investigated category of acts, in most cases, are full-structured, that is, they consist of preparation, direct commission of the act and concealment. The last component, concealment, determines the possibility of destroying or concealing the tools of the offence, items obtained by criminal means, items with traces of a criminal offence, etc. Therefore, the investigative measures of the subsequent stage of investigation of unlawful acts of this category are important for the effective conduct of the proceedings. In particular, a search should be singled out among them. The correct and appropriate use of appropriate tactical techniques during its conduct can significantly increase the evidence base and expose the perpetrators, since the search allows to identify material traces of a criminal offence. In view of this, conducting a search if there are grounds for it is not only the right, but also the duty of the investigator" (Yefimov, 2017).

In the context of the above, K.O. Chaplynskyi's position on simultaneous searches during the investigation of crimes committed by criminal groups should be considered. For example, the scholar states that in most cases they are performed "...during the investigation of crimes committed by a group of persons and especially by an organised criminal group or criminal organisation. However, according to investigative practice, simultaneous searches can also be conducted for crimes committed by one person. In order to hide the traces of the crime, a person often uses the services of relatives or acquaintances, friends, work colleagues, which leads to simultaneous searches in different places. Therefore, the decision to con-

duct simultaneous searches cannot be linked in any way to the circle of persons involved in the commission of the crime. To sum up, it should be noted that a simultaneous search should be understood as a time-coordinated conduct of several searches in different places or persons by investigative teams interacting with each other as part of a single criminal case. Investigators use all types of searches when investigating organised criminal activity. However, simultaneous searches of several members of a criminal group cause certain difficulties due to the presence of several accomplices, the need to involve a significant number of properly trained and equipped law enforcement officers" (Chaplynskyi, 2009). Thus, the researcher outlines the difficulties associated with conducting searches of several members of a criminal group, which, accordingly, requires the creation of several investigative teams, and in our case, in different countries.

3. Measures at the preparatory stage of the search

Next, some preparatory measures will be described. The most important of the above measures is to study the criminal proceedings fully and comprehensively. This is due to various factors: first, it provides information on the tools and means of committing the offence; second, it provides information on the identity of the offender and previously conducted investigative (search) actions. Based on the information studied and analysed, the following preparatory measures can be taken: processing information about the identity of the offender, determining the place and time of the search, and forming the investigative team. After all, only after the above, the authorised person can decide to conduct a search and determine the possibility of using appropriate tactics. However, the respondents' questionnaire analysis revealed that only 28% of them consider it worthy of attention.

Regarding the next preparatory measure (to establish accurate information about the target of the search), V. Shepitko argues that for this purpose "...it is possible to ask the searched person a series of clarifying questions about the time, place, nature and purpose of acquiring these objects; the nature of their use; place of storage, etc. Such questions enable to understand the relationship between the subject of the search and other circumstances, to identify certain contradictions and inaccuracies" (Shepitko, 2007). With regard to the objects that can be found during a search, a group of criminologists from the Kharkiv school, for example, based on the analysis of questionnaires and interviews with respondents, identifies the following: "...

weapons and means of committing a crime (indicated by 86% of respondents); objects with traces of a crime (62%); stolen objects (56%); documents (44%); traces of a crime (32%); corpses and their parts (8%); living persons (2%)” (Denysiuk, Shepitko, 1999).

The review of the materials of the studied category of criminal proceedings reveals the following groups of objects that should be seized during a search, namely:

a) ones indicating the commission of criminal acts: objects used by the offender to commit illegal acts; the offender's clothing with traces of biological origin (blood, sperm, saliva); objects belonging to the victim; tools used to inflict bodily harm on the victim;

b) ones evidencing possible locations of accomplices: locations of criminal groups in electronic computing equipment (tablets, smartphones, laptops, computers); information about public places where they mostly meet (restaurants, bars); personal letters; addresses of relatives and friends;

c) ones describing the personality of the offender and the circle of his or her accomplices: information in electronic computing equipment (tablets, smartphones, laptops, computers); medical certificates; certificates of release from prison; workplace characteristics;

d) evidencing the commission of other illegal acts by the offender: explosives; narcotic substances and precursors; cold steel and firearms.

With regard to the collection of orientation information, O. Antoniuk argues that “... it is necessary to identify and investigate all possible sources containing information about the age, level of culture, lifestyle, interests, work schedule, professional skills, special knowledge, hobbies, acquaintances and connections (not necessarily criminal), criminal capabilities, criminal record, family composition, relations with neighbours, work colleagues, etc. The authorised person can obtain this information individually or with the help of operational units. It should be noted that the profession of the person being searched, his or her habits, intellectual qualities and lifestyle inevitably affect the choice of a hiding place, the design of the cache, and the methods of disguise. The offender, as a rule, resorts to those techniques and methods that he or she is best at. Often, the profession of such a person indicates his or her physical ability to create caches, hard-to-reach places with the help of certain tools, instruments, raw materials, materials that he or she uses most often” (Antoniuk, 2020).

In this context, we advocate the opinion of K.O. Chaplynskyi that in terms of collecting orientation information about members

of a criminal group and the leader, “...for this purpose, information is collected on age, lifestyle, emotional and volitional qualities, level of culture, interests, special knowledge and skills, work schedule, acquaintances and connections (not necessarily criminal), criminal record, place in the structure of the criminal group, as well as family composition, relations with neighbours, work colleagues, availability of weapons or special means, etc. Investigative practice shows that criminals sometimes use their professional knowledge and skills to equip caches. In particular, during the study of criminal cases, it has been found that in 10% of cases, the concealment of stolen objects was carried out using the special professional skills of the persons concerned (for example, a tiler set up a cache in the bathroom under the tiles). In addition, the study of the offender's identity also helps to establish psychological contact, which allows for its effective use during searches” (Chaplynskyi, 2009). In other words, the study of the offender's identity provides the authorised person with a number of advantages, such as the possibility of establishing psychological contact with him/her, information about the probable location of the wanted objects.

Another obligation of the preparatory stage of the search will be to collect the necessary scientific, technical and forensic means. According to a separate group of scholars, “...a special set of scientific and technical means (investigative suitcase) provides significant assistance to the investigator in the search activity. During the preparation for a search, in some cases, it is necessary to provide lighting devices, tools for excavation and opening of caches, metal detectors, body detectors, ultraviolet illuminators, portable X-ray machines, bugs, etc.” (Bilenchuk, Hel, Saltevsykyi, Semakov, 2001). Obviously, the investigator or other authorised person alone will not be able to use these scientific and technical means, so the investigative team must include relevant specialists.

4. Conclusions

To sum up, it should be noted that the formulation of organisational and preparatory measures for a search during the investigation of crimes committed by transnational organised criminal groups is important for obtaining evidential information in criminal proceedings. Among these measures, the following are identified and described: to complete and comprehensively study the criminal proceedings, to establish accurate information about the target of the search, to collect orientation information about members of the criminal group and its leader, to prepare scientific, technical and forensic means, to identify members of the investigative search team. For example,

the analysis of the materials of the criminal proceedings under study enables to conclude that the following groups of objects should be seized during a search, namely: a) ones indicating the commission of criminal acts: objects used by the offender to commit illegal acts; the offender's clothing with traces of biological origin (blood, sperm, saliva); objects belonging to the victim; tools used to inflict bodily harm on the victim; b) ones evidencing possible locations of accomplices: locations of criminal groups in electronic computing equipment (tablets, smartphones, laptops, computers); information about public places where they mostly meet (restaurants, bars); personal letters; addresses of relatives and friends; c) ones describing the personality of the offender and the circle of his or her accomplices: information in electronic computing equipment (tablets, smartphones, laptops, computers); medical certificates; certificates of release from prison; workplace characteristics; d) evidencing the commission of other illegal acts by the offender: explosives; narcotic substances and precursors; cold steel and firearms.

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ПІДГОТОВЧИЙ ЕТАП ОБШУКУ ПІД ЧАС РОЗСЛІДУВАННЯ ЗЛОЧИНІВ, УЧИНЕНИХ ТРАНСНАЦІОНАЛЬНИМИ ОРГАНІЗОВАНИМИ ЗЛОЧИННИМИ УГРУПУВАННЯМИ: ПРОБЛЕМНІ ПИТАННЯ

Анотація. Мета. Метою статті є формулювання організаційно-підготовчих заходів обшуку під час розслідування злочинів, вчинених транснаціональними організованими злочинними угрупованнями. **Результати.** Наукова стаття присвячена дослідженню деяких аспектів розслідування злочинів, вчинюваних транснаціональними організованими злочинними угрупованнями. На основі опрацювання наукової літератури сформульовані та охарактеризовані організаційно-підготовчі заходи обшуку. Автор акцентує увагу на тому, що підготовчий етап обшуку відіграє важливе місце для його ефективного проведення. Адже вдало здійснені організаційно-підготовчі заходи забезпечать ряд умов, необхідних для цього. Серед вказаних заходів було виокремлено й охарактеризовано такі як повне та всебічне опрацювання матеріалів кримінального провадження, встановлення точної інформації стосовно предмету пошуку, збір орієнтуючої інформації про членів злочинного угруповання та її лідера, підготовка науково-технічних та техніко-криміналістичних засобів, визначення учасників слідчо-пошукової групи, складання плану обшуку. **Висновки.** Зроблено висновок про наявність наступних груп об'єктів, що варто вилучати під час проведення обшуку, а саме: а) що свідчать про вчинення злочинних дій: предмети, якими злочинець скоював протиправні дії; одяг злочинця, на якому лишилися сліди біологічного походження (кров, сперма, слина); предмети, що належать потерпілому; знаряддя, якими потерпілому були завдані тілесні пошкодження; б) що свідчать про можливі місця перебування співучасників: локації злочинних груп в електронно-обчислювальній техніці (планшетах, смартфонах, ноутбуках, комп'ютерах); відомості про місця загального користування, де вони переважно зустрічаються (ресторани, бари); особисті листи; адреси родичів та знайомих; в) що надають характеристику особі злочинця та колу його співучасників: відомості в електронно-обчислювальній техніці (планшетах, смартфонах, ноутбуках, комп'ютерах); медичні довідки; довідки про звільнення з місць позбавлення волі; характеристики з місця роботи; г) що свідчать про скоєння злочинцем інших протиправних діянь: вибухові речовини; наркотичні речовини та прекуртори; холодна та вогнепальна зброя.

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