

UDC 343.1

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## ORGANISATION AND TACTICS OF SEARCH DURING INVESTIGATION OF CRIMES COMMITTED BY TRANSNATIONAL ORGANISED CRIMINAL GROUPS

**Abstract. Purpose.** The purpose of the article is to formulate the tactical principles of 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. The tactical principles of conducting a search in the course of investigation of the category of unlawful acts under study are formulated. It is indicated that the search plays an important role in property-related criminal proceedings. This is due to the fact that when taking possession of certain objects in the course of committing any category of illegal acts, in most cases, offenders keep at least some of them for a certain time. Crimes committed by transnational organised criminal groups are also, in many cases, property-related. In addition, in many situations, this investigative (search) action enables to identify the organisation of a particular group and the roles of its members. It is specified that the authorised person, considering the investigative situation, decides what measures should be taken to ensure unimpeded access to the searched premises. Once the investigative team has entered the place of search (apartment, house, other premises), the authorised person must offer the person in the premises to hand over the items specified in the investigating judge's ruling, as well as those not specified - illegally obtained, withdrawn from civilian circulation, etc. In addition, from the very beginning of the procedural action, the authorised person shall establish psychological contact. In addition, it should be noted that the handing over of the above-mentioned hidden items is not a reason to terminate the search. After all, in many situations, a person may have committed other illegal actions, the evidence of which should also be revealed during the procedural action. **Conclusions.** It is stated that it is necessary to involve relevant specialists in the search to extract information from electronic computers. After all, for the effective implementation of this procedural action, the specified equipment must be examined. This type of examination has a certain specificity, which is due to the objective prospect of very quickly eliminating the information contained therein. It is specified that all actions related to work with electronic computing equipment should be performed only by a specialist to protect against possible deletion of the available information. This can be ensured by its protection until the relevant specialist arrives at the place of search.

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

### 1. Introduction

The search plays an important role in property-related criminal proceedings. This is due to the fact that when taking possession of certain objects in the course of committing any category of illegal acts, in most cases, offenders keep at least some of them for a certain time. Crimes committed by transnational organised criminal groups are also, in many cases, property-related. In addition, in many situations, this investigative (search) action enables to identify the organisation of a particular group and the roles of its members. Therefore, it has become necessary to study 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 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 tactical principles of search during investigation of crimes committed by transnational organised criminal groups.

## 2. The importance of a search in the investigation of criminal offences

To begin with, M.M. Yefimov argues, "...the importance of searches in the investigation of criminal offences against morality is due to the fact that often their results contain initial information proving the involvement of persons in immoral actions, and can be the basis for putting forward forensic versions and planning the investigation. In addition, all material traces of unlawful acts found during the search can be compared with the information obtained during other investigative (search) actions: inspection of the scene, interrogation of various categories of persons" (Yefimov, 2017). Given that crimes against morality are in some cases committed by transnational organised criminal groups, we also support the above position.

Moreover, L.P. Kovtunenکو argues that "...being in a state of strong excitement, the searched person is unable to control his or her actions, the results of which may be expressed in affective outbursts, manifestations of hysteria. Conversely, the passive participation of the searched person will exclude any contact with the investigator. In this case, the person understands that his or her behaviour during the search is being monitored by law enforcement officers, and therefore tries to pull himself or herself together in order to suppress his or her psychophysiological reactions, demonstrates indifference, silence, and stays in one place" (Kovtunenکو, 2012). As we can see, thanks to the right search tactics, it is possible to collect evidential information as fully as possible.

It is important to define certain procedural aspects regarding the execution of a ruling on permission to search a person's home or other property, as defined in specific paragraphs of Article 236 of the CPC of Ukraine, such as: "...3. Prior to the execution of the investigating judge's ruling, the person who owns the dwelling or other property, and in his/her absence - another person present, shall be shown the ruling and provided with a copy thereof. The investigator, public prosecutor may prohibit any person from leaving the searched place until the search is completed and from taking any action which impede conducting search. Failure to follow these requests entails liability established by law. The investigator or prosecutor shall not prohibit the search participants from using legal assistance of a lawyer or representative. The investigator, prosecutor is obliged to allow such a lawyer or representative to participate in the search at any stage of its conduct. 4. If no one is present in the home or

other possession, the copy of ruling should be left visible in the home or other possession. In such a case, investigator, public prosecutor is required to ensure preservation of property contained in the home or any other possession and make it impossible for unauthorized individuals to have access thereto. 5. Search based on an investigating judge's ruling should be conducted within the scope necessary to attain the objective of search. Upon decision of the investigator, public prosecutor, individuals present in the home or other possession may be searched if there are sufficient grounds to believe that they hide on their person objects or documents which are important for criminal proceedings. Such search should be conducted by individuals of the same sex in the presence of a lawyer, representative at the request of such person. Failure of the lawyer or representative to appear for the search within three hours does not prevent the search from being conducted. The course and results of a personal search are subject to mandatory recording in the relevant protocol" (Criminal Procedure Code of Ukraine, 2012).

Furthermore, we consider it necessary to cite the opinion of a group of researchers (R.I. Blaguta, Ye.V. Priakhin, R.I. Sybirna) who stated that "...a search can be characterised by both conflict and non-conflict situations. The specificity of the search determines the need to distinguish between the following two systems of tactics: tactics aimed at communicating with the searched person; tactics aimed at conducting search actions. The system of tactics for communicating with the searched person includes tactical combinations aimed at: removing obstacles and resistance of the searched person; stimulating the searched person to communicate with the investigator; establishing psychological contact with the searched person and obtaining search information from him/her" (Priakhin, 2016). According to M.B. Holovko and I.P. Osypenko, "...police officers should take measures to ensure the invisibility of the group's arrival: leave the vehicle invisible from the windows of the premises being searched; approach the house and enter it alone or in small groups (from two to three people). The investigator immediately arranges for surveillance of the windows and other exits (if any). In order to get into the apartment, they use a person known to the residents: electricians, plumbers, etc. An apartment can be entered when someone leaves it. In cases when nobody opens the door for a long time, the investigator notifies the apartment of the forced entry and instructs them to open it. When there is information that the offender is armed and may resist, special combinations are carried out to ensure the safety and disarmament

of the person(s) at the place of search” (Holovko, 2015). That is, the authorised person, considering the investigative situation, decides what measures should be taken to ensure unimpeded access to the searched premises.

Once the investigative team has entered the place of search (apartment, house, other premises), as prescribed by the provisions of the CPC of Ukraine, the authorised person shall offer the person in the premises to hand over the items specified in the investigating judge's ruling, as well as those not specified - illegally obtained, withdrawn from civilian circulation, etc. In addition, from the very beginning of the procedural action, the authorised person shall establish psychological contact. In addition, it should be noted that the handing over of the above-mentioned hidden items is not a reason to terminate the search. After all, in many situations, a person may have committed other illegal actions, the evidence of which should also be revealed during the procedural action. Based on the study of forensic practice, we found that in 11% of searches conducted, in addition to the things provided for in the ruling, evidentiary information was found that indicated that the person had committed other illegal acts.

With regard to psychological contact, it should be emphasised that its establishment is of great importance, as it ensures mutual perception of the participants in communication, as well as the exchange of verbal and non-verbal data. According to some authors, this “...contact can be initiated, for example, when the investigator offers to hand over the objects sought before the search, arguing that it is undesirable for children to see the scene of the search when they return from school. Even if the answer is negative, this step can be the basis for further contact. If the person being searched is stiff, self-confident or aggressive, you can try to relieve this state by talking about family relationships, work, health, etc.” (Kazmirenko and Moiseieva, 2007).

For example, B. and Z. decided to sell a particularly dangerous drug, cannabis (marijuana), remotely using the Internet, the Telegram messenger. They decided to sell the drugs by leaving them in a certain place, namely by making so-called ‘bookmarks,’ which should contain a certain amount of particularly dangerous cannabis (marijuana) placed in a paper roll or in a plastic bag with or without a fastener, magnet or wrapped with adhesive tape of different colours. The colour of the adhesive tape corresponded to the weight of the drug that was in the so-called ‘bookmark.’ In order to implement the criminal intent, in January 2019, the above-mentioned persons purchased

a card of the mobile operator PJSC VF Ukraine and registered in the Telegram messenger using mobile communication and the Internet. Then, using the Internet and the created account in the Telegram messenger, they created chats for consumers, including those from other countries (Case No. 607/9052/22, 2022). During the searches of the suspects' residences, the police found drugs and evidence of other criminal offences.

### 3. Features of search tactics

One of the most effective search tactics is the involvement of the victim or suspect in the search. The participation of these persons in the course of the search allows authorised persons to observe their behaviour. Based on an analysis of forensic practice, it was found that victims were involved in the search in 5% of cases, and suspects in 64%.

Another important tactic that can be used during a search is ‘verbal intelligence’. According to K. O. Chaplynskyi, it means ‘...that the investigator, during the search actions, calls out loud the objects that will be searched next. At the same time, the investigator must create the impression in the searched person that the wanted items will be found’ (Chaplynskyi, 2011). In addition, the authorised person may address other participants of the search with various proposals: to use technical means, search in another place, etc. According to Yu.I. Rusnak, this tactic enables the person concerned to communicate, as he emphasises, allowing the investigator not only to diagnose the attitude of the searched person to what is happening, but also to encourage him/her to communicate, change behaviour and the chosen position, and try to verbally interact with the investigator (Investigator's Desk Book, 2014). These conditions are ensured by the thoroughness of the search and the use of a large number of technical and forensic tools. Thanks to this tactic, the investigator can determine the person's attitude to this, as well as change their behaviour and start more open communication.

When investigating crimes committed by transnational organised criminal groups, a special feature of the search is that the person cannot be emotionless during the search. This is explained by the fact that the offender can react specifically to certain stages of the search and, in general, is sharply disturbed in such conditions. In view of the above, O.V. Tsyganenko correctly states that “...the tension of the searched person arises internally and manifests itself externally. The person shows signs of excitement, decreased critical thinking, memory, attention, changes in complexion, short-term dilation of the pupils, uncontrolled micromovements that contradict the content of the person's explanations,

biting or clamping of the lips, heavy breathing, etc. The reactions are significantly intensified if the investigative team comes close to the wanted objects" (Tsyhanenko, 2014).

Regarding the inspection stage of the search, a group of scholars notes that it "...includes a walk-through by an authorised person of the entire premises or area to be searched. During this, the investigator, inquiry officer directly gets acquainted with the place of search: the number and location of rooms, the presence of mezzanines, storerooms, closets, outbuildings, utility rooms, etc. With this in mind, he or she specifies the final version of the plan, the order of the search, assigns independent areas to operational officers, decides on the use of technical means (what kind, where, in what sequence), outlines the most realistic locations of the caches, and determines which areas he or she will search himself or herself. At this stage, the investigator asks the person being searched which premises and storage facilities are used by him or her personally and which are used by his or her family members. During a search of an office space, similar questions are asked of the person being searched and his or her co-workers. The data obtained is immediately verified by interviewing other persons present" (Holovko, Osypenko, 2015).

In the context of the above, we consider relevant the thesis of a group of criminologists (P.Ya. Minka, K.O. Chaplynskyi) that "...a search in the open area consists in a forced inspection of areas owned or used by members of a criminal group and their leaders in order to identify objects buried in the ground or otherwise hidden. A search of the area is conducted according to the same rules as a search of premises. However, the specificity of such searches is determined by the large area of the territory, which causes certain difficulties in their conduct. The territory to be searched shall be cordoned off and then inspected. Before the search begins, the location is divided into sections (sectors) of one hundred metres in length, with trees and bushes as landmarks, which allows the head of the search team to observe the actions of the search participants. The boundaries of the search are determined with due regard to the number of search team members, the nature of the area and the objects being searched" (Minka, Chaplynskyi, 2009). As we can see, the authors emphasised that the territory should be cordoned off before starting the search, and only then should the search operations be carried out.

It should also be noted that, according to O. Shvydkyi, '...the objects found during the search should be handled very carefully, as their smooth surfaces may contain fingerprints

of the offender and the victim. It is necessary to pick up such items in such a way as not to destroy the traces on them. Traces on objects found not in the suspect's apartment, but in common places, non-residential premises, various buildings, on a garden plot, or in a vegetable garden are of particular importance, when sufficient evidence against the suspect has not been collected, and he or she claims that he or she has nothing to do with these objects. The detection of the suspect's fingerprints on these items will help to expose his or her lies.' (Shvydkyi, 2006).

According to K.O. Chaplynskyi, during searches of persons who are members of a transnational organised criminal group, computer equipment can be found. The author emphasises that "...a computer may contain information that is directly relevant to the investigation of organised crime. This may include: information about the victim (compromising materials, information about commercial and other activities, phone numbers, addresses, etc.); information on the commission of crimes (plans, schedules, schemes); information on the criminal activity of the group (lists of group members, their addresses, list of property obtained by criminal means, etc.); data on persons protecting the criminal group (compromising information on public officials, amounts of remuneration received by corrupt persons for services rendered, list of lawyers serving the group, etc.)" (Chaplynskyi, 2002).

With regard to cyberbanking as a type of activity of transnational organised criminal groups, we believe that the opinion of J. Richards is relevant, as he argues that traditional currency - paper and coins - is easy to use, widespread and anonymous, but its use is usually limited to small amounts (\$1 million in \$20 weighs approximately 100 pounds) and in a specific country of issue. Therefore, the author concludes that traditional currency, even cheques, banknotes, debentures or any financial instrument, is not applicable in cyberbanking or cyberpayment systems. Instead of transferring or paying with a financial instrument, these electronic, digital or cyber payment systems facilitate the transfer of financial value through online bank accounts, smart cards or the proposed electronic benefit transfer (EBT) cards (Richards, 1999). Obviously, this requires to involve relevant specialists in the search to extract information from electronic computers. After all, for the effective implementation of this procedural action, the specified equipment must be examined. This type of examination has a certain specificity, which is due to the objective prospect of very quickly eliminating the information contained therein.

Therefore, we agree with the statement of O.I. Motliakh that "...when preparing for

a search, it is necessary to obtain information about the availability of computer equipment, its capabilities, technical characteristics and invite a computer systems specialist” (Motliakh, 2002). Therefore, all actions related to work with electronic computing equipment should be performed only by a specialist to protect against possible deletion of the available information. This can be ensured by its protection until the relevant specialist arrives at the place of search.

For example, at the beginning of 2022, Z. created and led an organised group, which at different times included O., F. and Y. All the members of the organised group were united by a single plan with the distribution of functions and roles, were also aware of and approved of the actions of each of them, and had a single intention to enrich themselves personally by purchasing, storing, transporting, and selling, as well as illegal sale of narcotic drugs and especially dangerous narcotic drugs, the circulation of which is prohibited, were aware that they were involved in criminal activity and clearly performed their assigned functions. The organiser of the group Z., after attracting a sufficient number of people for joint criminal activity, namely the commission of particularly serious crimes related to the illegal trafficking of restricted drugs, developed a single plan of criminal actions, which was communicated to all members of the organised group, who subsequently acted in accordance with it. In particular, on July 15, 2022, O., being a member of an organised criminal group, performing the duties assigned to him by the organiser, Z.’s organiser, after the proposal of A.’s offer to purchase “methadone”, he made a phone call to the above-mentioned organiser, to which the latter reported that he had the said drugs (Case No. 442/4122/23, 2023). During the searches at the place of residence of Z.’s place of residence, electronic computing equipment (tablets, computers, smartphones) containing information about the sale of drugs to foreigners who exported them abroad was found.

#### 4. Conclusions

Therefore, the search plays an important role in criminal proceedings on activities of transnational crime. It is specified that the authorised person, considering the investigative situation, decides what measures should be taken to ensure unimpeded access to the searched premises. Once the investigative team has entered the place of search (apartment, house, other premises), the authorised person must offer the person in the premises to hand over the items specified in the investigating judge’s ruling, as well as those not specified - illegally obtained, withdrawn from civilian circula-

tion, etc. In addition, from the very beginning of the procedural action, the authorised person shall establish psychological contact. In addition, it should be noted that the handing over of the above-mentioned hidden items is not a reason to terminate the search. After all, in many situations, a person may have committed other illegal actions, the evidence of which should also be revealed during the procedural action. Based on the study of forensic practice, we found that in 11% of searches conducted, in addition to the things provided for in the ruling, evidentiary information was found that indicated that the person had committed other illegal acts. It is stated that it is necessary to involve relevant specialists in the search to extract information from electronic computers. After all, for the effective implementation of this procedural action, the specified equipment must be examined. This type of examination has a certain specificity, which is due to the objective prospect of very quickly eliminating the information contained therein. It is specified that all actions related to work with electronic computing equipment should be performed only by a specialist to protect against possible deletion of the available information. This can be ensured by its protection until the relevant specialist arrives at the place of search.

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## **ОРГАНІЗАЦІЯ І ТАКТИКА ПРОВЕДЕННЯ ОБШУКУ ПІД ЧАС РОЗСЛІДУВАННЯ ЗЛОЧИНІВ, УЧИНЕНИХ ТРАНСНАЦІОНАЛЬНИМИ ОРГАНІЗОВАНИМИ ЗЛОЧИННИМИ УГРУПОВАННЯМИ**

**Анотація. Мета.** Метою статті є формулювання тактичних засад проведення обшуку під час розслідування злочинів, вчинених транснаціональними організованими злочинними угрупованнями. **Результати.** Наукова стаття присвячена дослідженню деяких аспектів розслідування злочинів, вчинених транснаціональними організованими злочинними угрупованнями. Сформульовано тактичні засади проведення обшуку під час розслідування досліджуваної категорії протиправних діянь. Вказано, що обшук займає важливе місце в кримінальних провадженнях майнової спрямованості. Це пояснюється тим, що при заволодінні певними об'єктами під час вчинення будь-якої категорії протиправних діянь в більшості випадків у правопорушників залишаються хоча б деякі з них протягом певного проміжку часу. Злочини, вчинені транснаціональними організованими злочинними угрупованнями, також в багатьох випадках мають майнове спрямування. Крім того, проведення вказаної слідчої (розшукової) дії в багатьох ситуаціях дозволяє виявити організованість певної групи та ролі її учасників. Зауважено, що уповноважена особа з огляду на слідчу ситуацію вирішує, які заходи варто вжити для безперешкодного потрапляння до обшукуваного приміщення. Після того, як слідчо-пошукова група потрапила в місце проведення обшуку (квартиру, будинок, інше приміщення) уповноважена особа повинна запропонувати особі, яка знаходиться у вказаному приміщенні, видати речі, як ті, що вказані в ухвалі слідчого судді, так і ті, що не вказані – незаконно здобуті, вилучені з цивільного обігу тощо. Крім того, з самого початку процесуальної дії уповноважена особа повинна встановити психологічний контакт. Також варто зауважити, що видача вище перерахованих речей не є підставою припинення реалізації обшуку. Адже в багатьох ситуаціях особа могла вчинити інші протиправні дії, підтвердження яких також слід в виявляти під час проведення процесуальної дії. **Висновки.** Констатована необхідність залучення до проведення обшуку відповідних спеціалістів для вилучення інформації з електронно-обчислювальної техніки. Адже для ефективної реалізації вказаної процесуальної дії необхідно здійснити огляд вказаної техніки. Зазначений вид огляду має певну специфіку, що зумовлюється об'єктивною перспективою дуже швидко ліквідувати відомості, які у ній знаходяться. Вказано, що усі дії стосовно роботи з електронно-обчислювальної техніки повинні виконувати тільки спеціаліст, щоб уникнути ризику вилучення наявних відомостей. Це можна забезпечити її охороною до прибуття на місце проведення обшуку відповідного фахівця.

**Ключові слова:** транснаціональне організоване злочинне угруповання, кримінальні правопорушення, розслідування, слідчі (розшукові) дії, планування розслідування, обшук, тактичний прийом.