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## FORENSIC ANALYSIS OF THE PREPARATORY STAGE OF INTERROGATION OF VICTIMS AND WITNESSES DURING INVESTIGATION OF CRIMES COMMITTED BY TRANSNATIONAL ORGANISED CRIMINAL GROUPS

**Abstract. Purpose.** The purpose of the article is to make a forensic analysis of the preparatory stage of interrogation of victims and witnesses during the 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 review of scientific literature, organisational and preparatory interrogation measures are formulated and characterised. The author emphasises that at the initial stage of investigation of crimes committed by transnational organised criminal groups, interrogation is a rather important procedural action. This aspect is due to a number of factors, such as: victims and witnesses in many cases provide information about the crime and the identity of the perpetrator; this information is the basis for the entire criminal proceedings; based on the testimony of these persons, it is possible to plan further procedural actions. Since a large amount of data remains in people's memory, it is worth using in the investigation of a certain category of unlawful acts. **Conclusions.** It is noted that organisational and preparatory measures are important for the effective and successful conduct of interrogation. Based on the analysis of the respondents' questionnaires, the following organisational and preparatory measures for the interrogation of victims and witnesses are identified, namely: to study of the available materials of criminal proceedings comprehensively and thoroughly; to establish the existing investigative situation; to find out the circle of persons to be interrogated; to identify the interrogated person; to formulate a list of specific questions to be asked of the interrogated person; to determine the time and place of the interrogation; to determine the method of summoning for interrogation; to form a range of participants in the interrogation (defence counsel, representative); to select criminal proceedings materials and material evidence to be presented to the interrogated person during the procedural action; to select and prepare scientific, technical and forensic means of its recording; to determine the tactics to be used for the most effective implementation of the procedural action; to draw up an interrogation plan. Some of them are described in the article.

**Key words:** transnational organised criminal group, criminal offences, victim, witness, investigation, investigative (search) actions, investigation planning, interrogation, organisational and preparatory measures.

### 1. Introduction

At the initial stage of investigation of crimes committed by transnational organised criminal groups, interrogation is a rather important procedural action. This aspect is due to a number of factors, such as: victims and witnesses in many cases provide information about the crime and the identity of the perpetrator; this information is the basis for the entire criminal proceedings; based on the testimony of these persons, it is possible to plan further procedural actions. Since a large amount of data remains in people's memory, it is worth using in the investigation

of a certain category of unlawful acts. Furthermore, organisational and preparatory measures are essential for the effective and successful conduct of interrogation. Considering the above, it became necessary to study this issue.

The following national and foreign scholars who have focused their research on the development of certain aspects of the interrogation should be noted: V.P. Bakhin, V.D. Bernaz, P.D. Bilenchuk, V.K. Veselskyi, A.F. Volobuiev, M.V. Danshin, M.M. Yefimov, V.S. Kuzmichov, V.H. Lukashevych, B.Ye. Lukianchykov, Ye.D. Lukianchykov, S.Yu. Petriaiev,

S.M. Stakhivskiy, M.V. Salteviskiy, V.M. Ter-tyshnyk, K.O. Chaplynskiy, V.Y. Shepitko, M.O. Yankoviy 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 make a forensic analysis of the preparatory stage of interrogation of victims and witnesses during the investigation of crimes committed by transnational organised criminal groups.

## 2. The importance of interrogation

To begin with, we rely on the statement of K.O. Chaplynskiy that "...interrogation is the most common investigative action by which information about the criminal activity of certain persons is collected. At the same time, interrogation is one of the most difficult investigative actions. Suspects (accused) are not interested in full and comprehensive disclosure and investigation of the crime, which cannot but affect the credibility of their testimony. Therefore, in order to successfully conduct interrogation and obtain positive results, investigators must have knowledge of the laws of thinking, logical methods and techniques, patterns of psychology and tactical interrogation techniques developed in forensic science" (Chaplynskiy, 2006). Considering this procedural action as part of the category of criminal proceedings under study, it should be noted that the legislator, unfortunately, has not provided a clear definition of this term. Only part 1 of Article 224 of the CPC of Ukraine specifies that "...interrogation is conducted at the place of pre-trial investigation or in another place by agreement with the person who is to be interrogated. Each witness is interrogated separately, without the presence of other witnesses" (Criminal Procedure Code of Ukraine, 2012). Therefore, we will try to formulate the definition of interrogation on our own, based on the works of scholars.

For example, M. O. Yankoviy defines it as follows: "...a process of specific verbal interaction with an interrogated person regulated by the criminal procedure law, during which the investigator (prosecutor, judge), using legal practical techniques and methods of psychological influence, receives from the interrogated person and records in the protocol oral information about the circumstances known to him/her that are relevant to the investigation of the crime" (Yankoviy, 2007).

According to A. F. Volobuev and M. V. Dan-shyn, it is defined as follows: "...an investigative action that consists in obtaining, in accordance with the procedure established by the criminal procedure law, testimony from persons

who have information relevant to establishing the truth in criminal proceedings" (Volobuev, Stepaniuka, Maliarovi, 2018).

According to V. K. Veselskiy, "...this is an investigative (search) action, the content of which is to obtain testimony from a person who has information relevant to the criminal offence under investigation. Interrogation can be described as the process of transferring information about the criminal offence under investigation, related circumstances and people. This information comes to the interrogated person at the moment of perception of certain phenomena or objects, is remembered and then reproduced and passed on to the investigator during the interrogation" (Piaskovskiy, 2020). These definitions emphasise the following aspects: regulatory framework of criminal procedure legislation; obtaining information from persons who possess it through verbal interaction; and the use of tactics.

Based on the above positions, the author's definition of interrogation is an investigative (search) action regulated by criminal procedure legislation, which is an information and psychological process of communication between an authorised person and a person who probably has certain information about an event for the effective conduct of criminal proceedings.

According to K. Chaplynskiy, the tasks of interrogation are as follows: "...to obtain evidence in a criminal case; to establish the objective truth in the case; to verify investigative versions proposed at the initial stage of the investigation; to establish factual data on the preparation, commission and concealment of crimes by members of criminal groups and their leaders; to establish the circumstances that facilitated or impeded the commission of the crime (in particular, the presence of gunners; the use of corrupt ties with representatives of state power and administration, law enforcement agencies, etc.); to collect information about the identity of the leader of the criminal group and their members, as well as their connections (not necessarily criminal); to take preventive measures to educate citizens, etc." (Chaplynskiy, 2009). In our opinion, the full implementation of these tasks will fully ensure the effective conduct of the procedural action under study.

The interrogation, like any other procedural action, has three stages: organisational and preparatory, working (direct conduct) and recording of its results. In the course of investigation of crimes committed by transnational organised criminal groups, these components of a particular procedural action do not lose their importance. Therefore, when working on the organisational and preparatory measures for a certain

procedural action, we should first determine their list.

For example, criminalists of the Dnipro school identified the following: "...a complete, comprehensive and thorough study of the criminal proceedings; determination of the subject of interrogation and the current investigative situation; determination of the circle of persons to be interrogated; determination of the sequence of interrogations; study of the identity of the offender; selection of material evidence and other materials to be presented to the interrogated; determination of the time of interrogation; determination of the method of summoning for interrogation; determination of the place of interrogation; determination of tactics to be used during interrogation and preparation of scientific and technical means of recording it; determination of participants in interrogation; ensuring favourable conditions for interrogation, with due regard for the need to ensure the safety of its participants; planning of interrogation" (Chaplynskyi, 2014).

A.F. Volobuiev identifies the following among them: thorough, complete and comprehensive study of the criminal proceedings; determination of the order of interrogation (i.e., the circle of persons to be interrogated and the sequence of their interrogation); obtaining information about the interrogated person; familiarisation with some special issues; invitation of persons whose participation in the interrogation is mandatory; planning the interrogation; determining the time and place of interrogation; preparation of the workplace for interrogation (Volobuiev, 2001).

Furthermore, a group of criminalists from the Kyiv school state that "...preparation for interrogation includes: collection of initial data; tactical support for interrogation; selection of time and place of interrogation; determination of the method of summons for interrogation; technical support for interrogation; preparation of a plan of investigative (search) action" (Piaskovskyi, 2020).

### **3. Preparatory measures for the interrogation of victims and witnesses**

Based on the analysis of the respondents' questionnaires, the following organisational and preparatory measures for the interrogation of victims and witnesses during investigation of crimes committed by transnational organised criminal groups, are identified, namely:

- Study of the available materials of criminal proceedings comprehensively and thoroughly – 85 %;
- Establish the existing investigative situation – 62 %;
- Find out the circle of persons to be interrogated – 100 %;
- Identify the interrogated person – 92 %;

- Formulate a list of specific questions to be asked of the interrogated person – 78 %;
- Determine the time and place of the interrogation – 56 %;
- Determine the method of summoning for interrogation – 42 %;
- Form a range of participants in the interrogation (defence counsel, representative) – 48 %;
- Select criminal proceedings materials and material evidence to be presented to the interrogated person during the procedural action – 71 %;
- Select and prepare scientific, technical and forensic means of its recording – 69 %;
- Determine the tactics to be used for the most effective implementation of the procedural action – 92 %;
- Draw up an interrogation plan – 34 %.

The first and foremost step is to study the criminal proceedings. In this regard, a group of researchers argue that "...a targeted study of the proceedings enables to establish the circle of persons to be interrogated, determine the subject of interrogation, and formulate questions to the interrogated. The study of the proceedings should begin with the primary data underlying the decision to enter information into the Unified Register of Pre-trial Investigations. In this context, interesting information for interrogation can be obtained from the explanations of the interrogated person, which reflect his or her position and attitude to what happened, and such explanations often contain data that help to direct the course of the interrogation and verify the information obtained from the interrogated person. Examining the case file involves analysing the data contained in the investigative reports, which allows for the identification of contradictions or gaps in certain circumstances. The analysis of the results of investigative actions such as inspection of the scene and search is important in the process of studying the materials of the proceedings. Their study can be useful for putting forward versions of the mechanism of the crime and the perpetrators" (Lukianchykov, Lukianchykov, Petriaiev, 2017). According to Yu. Chaplynska, preparatory measures can "...identify existing gaps, disagreements and contradictions between the participants in the process and timely address them" (Chaplynska, 2013).

After the above measure, it is necessary to move on to the next one – the formulation of a list of specific questions to ask the interrogated person. Based on the monographic work of K.O. Chaplynskyi (2009), the following questions can be identified to ask victims and witnesses of the category of crimes under study, namely:

- What data caused the criminals to have an unlawful intention;
- What information is available about the object of the offence, the motive for the offence and the attitude to the criminal consequences;
- What information about the identity of the offender can be provided (leader of the criminal group, its member, role in the OCG, relationship with the victim or witness);
- What are the methods of preparation, direct commission and concealment of organised criminal activity;
- What were the circumstances (time, place, conditions) of the unlawful act;
- What was the physical and psychological state of the perpetrator at the time of the unlawful act and afterwards;
- What conditions favoured or hindered the commission of the offence;
- How the OCG was created and the nature of its illegal activities;
- Whether there were corrupt links and connections with other OCGs, if so, what kind of connections;
- Whether there were ways to counteract the pre-trial investigation and influence victims, witnesses and group members who give truthful testimony, if so, what they were;
- What information is available on the availability of weapons, communications and technical equipment of the OCG members.

It is also worth remembering that the accuracy of the victim's or witness's testimony is affected by a number of subjective and objective factors. In this regard, we advocate M.M. Yefimov's assessment of the following factors: "...the state of intoxication; the rapid course of the event; the crowd of people there; family or friendship with the suspect; the intention to take revenge on the offender; the desire to exaggerate the damage caused, etc. Therefore, when interrogating victims in hooliganism cases, their state of mind must be considered. After all, agitated victims should be given the opportunity to calm down. At the first interrogation, it is advisable to find out who they had told about the incident before they were interrogated, which will help to verify other testimonies" (Yefimov, 2015).

In addition, it should be emphasised that victims and witnesses, on the one hand, have a significant amount of information about the unlawful act, and on the other hand, due to various factors, may not provide it. Considering the above, L.D. Udalova emphasises that "...communication during interrogation is complicated by the fact that interrogation is a specific form of communication, in the course of which citizens who are in the field of pre-trial investigation

and court proceedings come into direct contact with representatives of investigative and judicial authorities who are vested with power" (Udalova, 2003). Therefore, the authorised person should establish psychological contact with the victim or witness from the very first moment of communication and then maintain it.

Regarding the time of interrogation, we agree with Ye.D. Lukianchikov, who states that "...a summons for interrogation may take place in conditions of limited information about a person, so it is difficult to predict his or her possible intentions and actions. Therefore, the decision to summon for interrogation and the choice of the means of summoning is made in conditions of tactical risk. Therefore, the investigator, given certain data, must predict the undesirable behaviour of the person summoned for interrogation" (Lukianchikov, 2003).

#### 4. Conclusions

To sum up, it should be noted that organisational and preparatory measures are important for the effective and successful conduct of interrogation. Based on the analysis of the respondents' questionnaires, the following organisational and preparatory measures for the interrogation of victims and witnesses are identified, namely: to study of the available materials of criminal proceedings comprehensively and thoroughly; to establish the existing investigative situation; to find out the circle of persons to be interrogated; to identify the interrogated person; to formulate a list of specific questions to be asked of the interrogated person; to determine the time and place of the interrogation; to determine the method of summoning for interrogation; to form a range of participants in the interrogation (defence counsel, representative); to select criminal proceedings materials and material evidence to be presented to the interrogated person during the procedural action; to select and prepare scientific, technical and forensic means of its recording; to determine the tactics to be used for the most effective implementation of the procedural action; to draw up an interrogation plan. Some of them are described.

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## КРИМІНАЛІСТИЧНИЙ АНАЛІЗ ПІДГОТОВЧОГО ЕТАПУ ДОПИТУ ПОТЕРПІЛИХ І СВІДКІВ ПІД ЧАС РОЗСЛІДУВАННЯ ЗЛОЧИНІВ, УЧИНЕНИХ ТРАНСНАЦІОНАЛЬНИМИ ОРГАНІЗОВАНИМИ ЗЛОЧИННИМИ УГРУПОВАННЯМИ

**Annotation. Purpose.** Метою статті є здійснення криміналістичного аналізу підготовчого етапу допиту потерпілих та свідків під час розслідування злочинів, вчинених транснаціональними організованими злочинними угрупованнями. **Results.** Наукова стаття присвячена дослідженню деяких аспектів розслідування злочинів, вчинюваних транснаціональними організованими злочинними угрупованнями. На основі опрацювання наукової літератури сформульовані та охарактеризовані організаційно-підготовчі заходи допиту. Автор акцентує увагу на тому, що на початковому етапі розслідування злочинів, вчинених транснаціональними організованими злочинними угрупованнями, досить вагомою процесуальною дією є допит. Даний аспект пояснюється рядом факторів, як-от: потерпілі та свідки в багатьох випадках надають інформацію стосовно події злочину та особи злочинця; вказані відомості є базою для всього кримінального провадження; виходячи з показань зазначених осіб можливо спланувати подальші процесуальні дії. Оскільки в пам'яті людей зостається досить великий об'єм даних, які варто застосовувати під час розслідування визначеної категорії протиправних діянь. **Conclusions.** Зазначено, що організаційно-підготовчі заходи відіграють важливе значення для ефективного та успішного проведення допиту. На основі аналізу анкетування респондентів встановлено наступні організаційно-підготовчі заходи до проведення допиту потерпілих та свідків, а саме: всебічне та ретельне опрацювання наявних матеріалів кримінального провадження; встановлення наявної слідчої ситуації; з'ясування кола осіб, які підлягають допиту; вивчення особи допитуваного; формулювання переліку конкретних питань, які необхідно поставити допитуваному; визначення часу та місця проведення допиту; визначення способу виклику на допит; формування кола учасників допиту (захисник, представник); підбір матеріалів кримінального провадження та речових доказів для пред'явлення допитуваному під час проведення процесуальної дії; підбір і підготовка науково-технічних та техніко-криміналістичних засобів його фіксації; визначення тактичних прийомів, які потрібно використати для найбільш ефективного здійснення процесуальної дії; складання плану допиту. Надано характеристику окремим з них.

**Ключові слова:** транснаціональне організоване злочинне угруповання, кримінальні правопорушення, потерпілий, свідок, розслідування, слідчі (розшукові) дії, планування розслідування, допит, організаційно-підготовчі заходи.