
***Кримінальний процес та криміналістика;
судова експертиза; оперативно-розшукова діяльність***

УДК 343

DOI 10.33244/2617-4154.2(9).2022.146-155

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**INVESTIGATION OF CRIMINAL OFFENCES IN
THE FIELD OF BANK ACTIVITY AND FEATURE
OF COOPERATION OF INQUISITIONAL
SUBDIVISIONS OF NATIONAL POLICE UKRAINE
WITH LAW ENFORCEMENT AUTHORITIES OF
OTHER STATES AT THEIR INVESTIGATION**

The article is sanctified to illumination of cooperation of inquisitional subdivisions of national police of Ukraine with law enforcement authorities of other states during investigation of criminal offences in the field of bank activity. Basic directions of cooperation of law enforcement authorities of the different states are reflected at investigation of criminal offences. Lately taking into account the large public danger of criminal offences in the field of bank activity it costs to notice a that circumstance, that they already a long ago purchased transnational character and it costs to concentrate separate attention on a question to cooperating of organs of the National police of Ukraine with international organizations on questions investigation of this category of criminal offences. The norms of Criminal- judicial Code of Ukraine are analysed in the division of IX "International cooperation during criminal realization" where substantial attention is spared to the problems of international cooperation in counteraction to criminality. In particular, the norms of this division give an opportunity to define basic directions of international cooperation: a) head 43 determines position of international legal aid during realization of judicial actions; b) in a head 44 an order is certain deliveries of persons, that accomplished criminal offence(екстрадиція); c) a 45 head envisages position of criminal realization in the order of adopting; d) and in a head 46 it is certain concept of confession and implementation of sentences of courts of the foreign states and transmission of convict persons. Attention applies to the question of collaboration of operative subdivisions of the National police in relation to counteraction criminal offence in the field of bank with foreign law enforcement authorities in industry of

operational search activity. Such collaboration comes true in a kind: to the exchange operatively by meaningful, criminalistics and other information, and also to the exchange the archived information from the marked questions; implementation of queries and of commissions; mutual assistance in realization of, general realization of the special operations; to the exchange of work experience on questions, assistance in preparation operational search activity, retraining and in-plant training of shots.

Keywords: *collaboration, exchange, operational search activity, international cooperation, judicial actions, information.*

Problem setting. Modern state of bank criminality, is characterized the stable increase of amount of criminal offences that fall into the category of latent. Swingeing majority of these acts is accomplished by proof criminal groups or "professional" criminals, carefully planned and differs in the high degree of good organization and technical equipped.

At preparation to practical realization of criminal design criminals develop the different variants of concealment of tracks of illegal encroachments in detail, and during investigation seek out possibilities of direction of investigation an erroneous way and of grant of the organized counteraction.

Important circumstance that information about the investigated illegal event in swingeing majority of cases does not lie on a surface, does not come as by a drift for in good time to the well-known channels in the order of law enforcement authorities. To Tom, as justly marks V. A. Obrazchov, the basic loading in relation to the decision of searching tasks lies down on the shoulder of investigator and operative workers [1, p. 35].

Thus, the practical value of cooperation of investigator with operative workers consists in that judicial activity without application not judicial methods would be impossible, but operational search activity without the further use of her results in a criminal process – aimless [2, p. 4].

Analysis of recent research and publications. By the theoretical and practical question of cooperation of inquisitional subdivisions of the National police of Ukraine with law enforcement authorities of other states during investigation of criminal offences in the field of bank activity many labours of home and foreign scientists are devoted. Considerable payment in research of this question was done by such specialists, as D. I. Bidnyakova, A. V. Gordinya, V. V. Topchiya, V. I. Horbachevskyy, C. B. Cooper and other scientists.

The analysis of scientific researches educed however, that this question for today was actual enough and needs more more global research. Actuality, practical meaningfulness, insufficient investigationalness of the indicated questions, stipulated the choice of theme of the article and defined her aim.

Setting objectives of the article is research of cooperation during investigation of criminal offences in the field of bank activity of the National police of Ukraine with law enforcement authorities of other states.

Presenting main material. Mechanism of cooperation of investigator with organs, that carry out operational search activity must be base on observance of the system of principles that provide timely, and effective decision of tasks that stand before them. To the number of

fundamental, in our view, principles belong: to legality; respect and observance of rights and freedoms of man and citizen; to humanism; to belonging of results of cooperation to investigation of particular criminal act; combination individual and collective began; clear differentiation of competence each of interactive parties; to continuity of cooperation during all investigation; to the personal interest of parties in the achievement of the put aim; timely exchange by information between subjects cooperations about well-known circumstances, that can matter for investigation; the nondisclosure of operational search and inquisitional information, and also acceptance of measures that provide her maintenance, parties [3, p. 80].

Practice testifies that a failure to observe of the marked principles pulls errors, that can be differentiated on the errors of judicial character, gnosiological errors (logical and actual) and effective(operating-rooms) errors [4, p. 85].

If judicial errors are related to retreat from the requirements of current legislation, then logical – with violation in the rich in content processes of laws and rules of logic, by improper application of logical receptions and operations, and depend mainly on the way of thinking and actions of inquisitional and operative employee.

In turn actual errors are related to the unauthenticity incompleteness of operational search data must be preceded the use of that them careful verification and comparison with already present materials. What touches working(operating-rooms) errors, then they, as a rule, related to improper organization and planning of predictable investigators (of criminal investigation) and judicial actions in basis of that as an informative constituent the results of operational search activity are used.

As an analysis of inquisitional practice shows joint activity of investigator and operative workers on the initial stage of investigation, as a rule, comes true in the conditions of complete null information about the circumstances of feasance of criminal offence and limit nature of time, conditioned by possibility from the side of criminals to hide tracks of illegal act, destroy documents and other carriers of information. The marked circumstances predetermine searching-reconnaissance character of this activity, her orientation on an actual background that is owned by investigation and receipt of additional information with the aim of removal of informative vagueness check. It envisages, in particular, the receipt of information about the places of being of the hidden documents and property, purchased by a criminal way; establishment of circumstances that characterize the face of the suspected and most essential potential witnesses; exposure of persons that have information about criminal offence and can give about this testimony.

Next to it from the beginning investigation of cooperation of the marked subjects extremely important direction is co-ordination of their activity from stopping, neutralization and removal of possible attempts of illegal interference from the side of the interested persons, including by realization of statutory events of compulsion.

What touches the next stages of investigation, then basic attention of persons that carry out operational search activity as a rule, is spared to the exposure of new episodes of incorrect activity, maximally complete establishment of circle of persons participating to the crime and establishing connections between them, conditioning for realization and providing of effectiveness of inquisitional(of criminal investigation) actions.

However during all pre-trial investigation there is activity of the employees provided with authorities for realization of operational search activity and investigator must carry complementary character, in order to avoid realization of unnecessary duplicate work. In a counterbalance to it absence of the proper cooperation renders negative influence on motion of investigation.

The stated grounds for a conclusion, that main terms, that provide the concerted activity of the adopted persons, are: 1) common planning of investigators(of criminal investigation), other judicial actions and operational search events or concordance of separate plans present for an investigator and operative worker with the aim of providing of co-ordination of actions and clear differentiation of duties in the process of joint work; 2) mutual and timely exchange by information in the process of development of versions and their verification; 3) global analysis of inquisitional situation, that is folded and collected in realization of data, marked actions and events got in the process of realization, and if necessary further adjustment of plan(plans); 4) discussions of decisions are about realization of inquisitional(of criminal investigation) actions and possible tactical receptions the use of that most expediently.

In legal literature marked repeatedly, that investigators were extremely rarely brought over to the acquaintance with materials of operative developments. Hereupon the row of authors deems it wise legislatively to fasten a right for an investigator on an acquaintance with operatively-official documents that relate to criminal realization, and is in his realization [5, p. 19].

As investigation of the considered criminal offences in swingeing majority of cases is connected with considerable on a volume work in pre-trial realization and necessity of simultaneous realization of inquisitional(of criminal investigation) actions and operational search events, pre-condition that provides efficiency of pre-trial investigation is timely creation of inquisitional groups. As justly marks A. M. Balashov, the timeliness of their creation depends on two constrained terms. First – consists in that, in time to educe circumstances that specify on the necessity of creation of inquisitional group. Second – is characterized minimum short spaces during that it is needed to organize these groups [6, p. 81].

The necessity of creation of inquisitional group at the beginning of investigation, as a rule, arises up in case of beginning of pre-trial investigation after materials of operative verification of information about persons, that prepare, accomplish or committed crime. It is conditioned by that in the marked materials already to the moment of beginning of investigation there is information about persons, that committed crime, places of possible concealment of documents and objects, that matter for realization, and also monetary resources and other property obtained by a criminal way. The real possibility in advance to plan is hereupon given, to co-ordinate and prepare to realization of all complex of necessary inquisitional (of criminal investigation) actions and operational search events.

In relation to the next stages of investigation a requirement in creation of inquisitional group arises up mostly upon receipt fact sheets, that testify that criminal offence is perfect a criminal group(that, for example, characteristically for such acts as legalization(washing) of the money or other property, obtained by a criminal way by other persons or purchased by a person, plundering with the use of payment cards, securities, and also by the illegal producing of requirement about the compensation of tax value-added, making or sale of the

counterfeited securities and plastic cards and others like that) or since it will be set that it quite suspected (to the defendants) not one, but a few criminal offences.

What touches distribution of duties between the members of inquisitional group, then it depends both on terms investigation passes in that and from an inquisitional situation that is folded. The most optimal variant, as practice testifies, a selection to the inquisitional and operative workers of independent areas of work is. Grounds for the selection of the last also can be different, for example, in relation to verification of the pulled out versions, in relation to certain suspected or subjects of menage or to the certain episodes of against activity.

Given, got as a result of realization of operational search events, can have both orienting character and contain criminalistics meaningful information.

Results of operational search activity, that have an orienting value on the maintenance various enough. It can be given about the methods of preparation, feasance and concealment of criminal offence; composition of criminal group; objects and documents that can be proofs in realization; persons that can be interrogated as witnesses; about mutual relations and copulas of persons, that pass in realization; about select suspected line of behavior on investigation; about the attempts of criminals to influence on witnesses and participant with the aim of giving of false testimonies.

Using orienting operative information, an investigator can:

- to forecast the most reliable places of concealment of documents and objects that can matter for realization, possible attempts of their elimination or change of places of storage; to forecast the place of being of the monetary resources and other property, got a criminal way;

- to forecast evidence of demeanours, suspected. In particular, to assume them possible reaction, on the fact of beginning of pre-trial investigation (for example, for the purpose the grant of the organized counteraction to investigation), on realization of that or other inquisitional (of criminal investigation) action (for example, to the search) or on those or other questions in the process of interrogation.

Taking into account the large public danger of criminal offences in the field of bank activity it costs to notice a that circumstance, that they already a long ago purchased transnational character and it costs to concentrate separate attention on a question to co-operating of organs of the National police of Ukraine with international organizations on questions investigation of this category of criminal offences. This fact in the scientific work confirms Y. M. Zhornoys, marking that "in the conditions of counteraction to the organized interregional crime of the special actuality acquire the question of cooperation of subdivisions of police with other subdivisions, law enforcement authorities of Ukraine and international law-enforcement bodies, by public institutions and organizations, by non-state establishments and enterprises, and also organizations of exchange operational search information" [7, p. 232].

Passing actually to the question of cooperation of organs of the National police with international organizations in relation to investigation of criminal offences it costs to mark in the field of bank activity, that is actually laid in a concept "cooperations". Fully support position of V. V. Topchiya, V. I. Horbachevskyy, what mark that it "concerted, such that are base on tasks of criminal realization, complex (judicial and operational search) actions of subjects of criminal judicial activity, the aim of that is opening, investigation and prevention,

bringing in, criminal offence to responsibility of winy persons exceptionally on grounds certain the norms of penal judicial law and other normative acts, that comes true at severe differentiation of their competence, within the limits of the given plenary powers, by the way of the most effective report of the events settled for them and corresponding material providing at maintenance of secret of pre-trial investigation and sources of receipt confidential information" [8, p. 126].

Conducting the analysis of different opinions of the Ukrainian and foreign scientists, it is possible to set forth an authorial decision that touches co-operating of organs of the National police of Ukraine with law enforcement authorities of the foreign states, that touches investigation of criminal offences in the field of bank activity. Thus, under the adopted type of cooperation it costs to understand certain a current legislation and a clearly plan totality of certain complementary events, including informative character, that sent to establishment of persons, that accomplished criminal offence in the field of bank activity, and also collection of information that will have an evidential value in realization, using possibilities of foreign government (but ungovernmental structures), law enforcement authorities and organizations of international level bodies here.

Instruction is from organization of activity of organs of pre-trial investigation of the National police of Ukraine [9], determines the next ways of providing of organization of cooperation of inquisitional subdivisions with other organs of pre-trial investigation of HITY in counteraction criminal offence in the field of bank activity:

– the "complex use of forces and facilities of all subdivisions of organs of police during pre-trial investigation of criminal offences in the field of bank activity;

it is creation for all-round, complete and notpreconceived research of circumstances of criminal realization after criminal offences in the field of bank activity of inquisitional-operative groups with plugging in their composition of workers of operative and other subdivisions of organs of the National police, and in case of necessity – interdepartmental inquisitional-operative groups;

– effective control after timely and complete implementation by operative subdivisions of commissions inquisitional about realization of SRD;

– quality preparation of materials on problem questions of activity of organs of pre-trial investigation at investigation of criminal offences in the field of bank activity and their discussion on the colleges (conferences), general colleges and conferences with other law enforcement and state authorities and acceptance of certain and effective administrative decisions" [9].

In operating CPC of Ukraine in the division of IX "International cooperation during criminal realization" is spared substantial attention to the problems of international cooperation in counteraction to criminality [10]. In particular, analysing the norms of this division it is possible to define basic directions of international cooperation: a) head 43 determines position of international legal aid during realization of judicial actions; b) in a head 44 an order is certain deliveries of persons, that accomplished criminal offence (extradition); c) a 45 head envisages position of criminal realization in the order of adopting; d) and in a head 46 it is certain concept of confession and implementation of sentences of courts of the foreign states and transmission of convict persons [10].

The article of 542 CPC of Ukraine determines the volume of international cooperation during criminal realization: "international cooperation during criminal realization consists in the acceptance of necessary measures with the aim of grant of international legal aid by handing of documents, implementation of separate judicial actions, deliveries of persons, that accomplished criminal offence, temporal transmission of persons, adopting of criminal pursuit, transmission of convict persons and implementation of sentences. By the international agreement of Ukraine can be envisaged other, than in this Code, forms of collaboration during criminal realization" [10].

Realization of plenary powers that depend upon Ministry of internal affairs, in relation to creation of politics of the state in relation to the problems of international cooperation, and also controlling of embodiment of politics of the state from the problems of international cooperation will realize Department of international cooperation and європейської integration of MBC the component elements of vehicle of Ministry of internal affairs. In relation to the collaboration of operative subdivisions from overcoming of criminality in relation to morality with the organs of investigation of foreign countries realized by Department of international constabulary cooperation of the National police of Ukraine.

An important problem in overcoming of criminal offences in the field of bank activity are a settlement and maintenance at the level of collaboration with various organizations of international character, that does not belong to law enforcement authorities, but that as a result of features of their work can be known about their realization, including the grant of help to the persons, carrying out the return of money resources and indemnification of the inflicted harm.

Question of collaboration of operative subdivisions of defence of economy of the National police in relation to counteraction criminal offence in the field of bank with foreign law enforcement authorities in industry of operational search activity comes true on the basis of century of a 5-1 Law of Ukraine "About operational search activity" [11] but to the division of IX of CPC of Ukraine [10]. Yes, a collaboration comes true in a kind:

- to the "exchange operatively by meaningful, criminalistics and other information прокримінальні offences that prepare or perfect, participating to it persons and persons that is searched, and also exchange the archived information, from the marked questions;
- it is implementation of queries of commissions;
- mutual assistance in realization of general realization of the special operations;
- to the exchange of work experience on questions assistance in preparation, retraining and in-plant training of shots;
- interdepartmental scientific researches" [12].

Conclusions. Thus, the study of problem of collaboration of inquisitional subdivisions of the National police of Ukraine with the organs of investigation of foreign countries at investigation of criminal offences in the field of bank activity grounds to do certain conclusions.

The first conclusion consists in that counteraction the investigated criminal offence needs bringing in to realization of certain events of plenty of participants the list of that is set depending on a certain case, and usually from plenary powers of certain subjects.

The second conclusion consists in that at the level of the state in counteraction criminal offence in the field of bank it costs to work out effective cooperation between the supreme legislative body of power and President of Ukraine, so as exactly they begin and develop political aspiration of the state in industry of guard of work of bank structures, by an executive body as that organ, that provides embodiment of politics of the state in the field of adopted, and usually MVS of Ukraine, National police of Ukraine as by supervisory organs after implicit implementation of legislative binding overs in the marked industry.

Thirdly, with providing of organization of collaboration of inquisitional subdivisions Department of international cooperation and european integration of Ministry of internal affairs and Department of international constabulary cooperation of the National police of Ukraine read by the organs of investigation of the foreign states. At the marked cooperation a trade-out comes true by informative resources in relation to criminal offences in the field of bank, and also aid and comfort in realization of investigators(of criminal investigation) and secret inquisitional(of criminal investigation) actions, also realization of general research events. Ukraine comes forward as a member of Interpol and has made agreement about a judicial and strategic collaboration with that is founding for the use of possibilities of the adopted organizations in investigation of criminal offences at an international level.

It costs to mark in a fourth conclusion, that co-operating of the National police of Ukraine with international organizations takes place on global and regional levels. The best results show up in the process of collaboration of law enforcement authorities of Ukraine with the Working vehicle of Interpol, the aim of that consists in an exchange informative resources, establishment of persons, things and documents that is fixed in the bases of Interpol; an assistance is in realization of international search of criminals; realization of extradition them events; implementation of judicial actions at an international level. These types of collaboration have criminalistics aspiration. It touches an informative constituent that characterizes the investigated criminal offences and helps in their opening. Similarly with criminalistics have connection of person, objects and documents that are in an account in the base of Interpol, in fact here the use of criminalistics methods of diagnostics and authentication comes true, and also different directions of criminalistics technique.

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Стаття присвячена висвітленню взаємодії слідчих підрозділів Національної поліції України з правоохоронними органами інших держав під час розслідування кримінальних правопорушень у сфері банківської діяльності. Висвітлено основні напрями взаємодії правоохоронних органів різних держав у процесі розслідування кримінальних правопорушень. Останнім часом, враховуючи велику суспільну небезпеку кримінальних правопорушень у сфері банківської діяльності, варто зауважити ту обставину, що вони вже давно набули транснаціонального характеру і потрібно окрему увагу зосередити на питанні взаємодії органів Національної поліції України з міжнародними організаціями з питань розслідування цієї категорії кримінальних правопорушень. Проаналізовано норми Кримінально-процесуального кодексу України у розділі IX «Міжнародне співробітництво під час кримінального провадження», де приділяється суттєва увага проблемам міжнародної взаємодії у протидії злочинності. Зокрема, норми цього розділу дають можливість визначити основні напрями міжнародної взаємодії: а) глава 43 визначає положення міжнародної правової допомоги під час проведення процесуальних дій; б) у главі 44 визначено порядок видачі осіб, які вчинили кримінальне правопорушення (екстрадиція); в) 45 глава передбачає положення кримінального провадження у порядку перейняття; г) у главі 46 визначено поняття визнання та виконання вироків судів іноземних держав і передача засуджених осіб. Звертається увага на питання співпраці оперативних підрозділів Національної поліції щодо протидії кримінальним правопорушенням у банківській сфері із зарубіжними правоохоронними органами у галузі оперативно-розшукової діяльності. Таке співробітництво здійснюється у вигляді: обміну оперативно значимою, криміналістичною та іншою інформацією, а також обміну архівною інформацією із зазначених питань; виконання запитів та доручень; взаємного сприяння у проведенні спільного здійснення спеціальних операцій; обміну досвідом роботи з питань оперативно-розшукової діяльності, сприяння в підготовці, перепідготовці та підвищенні кваліфікації кадрів.

Ключові слова: співпраця, обмін інформацією, оперативно-розшукова діяльність, міжнародне співробітництво, процесуальні дії.

Стаття надійшла до редколегії 9 листопада 2022 року

Bilko T. Investigation of criminal offences in the field of bank activity and feature of cooperation of inquisitional subdivisions of national police Ukraine with law enforcement authorities of other states at their investigation