

PECULIARITIES OF DETECTING CRIMINAL OFFENCES IN THE SPHERE OF ECONOMIC ACTIVITY

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Abstract

The article establishes that the latent character of unlawful acts in the sphere of economic activity necessitates active searching for primary information, which conditions both the detection process and the methodology for verifying operational intelligence. For each serious and particularly serious criminal offence (or group thereof) in the sphere of economic activity, it is necessary to identify discrete structural elements that make it possible to construct an abstract model of the criminal unlawful act a model containing orienting information indicating that the detected objects are related to a criminal offence, i.e., a formal correspondence is established between the information obtained and the abstract model of the unlawful act formed in the mind of the detecting subject. Accordingly, the following search elements are characteristic of each category of criminal offences in the sphere of economic activity: the sphere of economic activity (commercial, non-commercial, banking, financial, etc.); objects (economic entities; fictitious enterprises; registration and licensing authorities; sites of illegal production; supervisory and audit bodies; persons preparing, committing, or having committed an offence, witnesses, agents); items (agreements; cash funds; tax returns; tax reporting documents and others; bank cards and accounts; accounting records; consignment notes; orders; invoices; delivery notes; payment orders; stamps and seals; facsimile signatures; passports, etc.); documents (the list of which and the search indicators they contain are contextualised according to the stage of economic activity); subjects (operative officer, investigator, detective, etc.); sources of operational intelligence and tactical methods of obtaining it. The process of gathering primary materials requires information on specific financial transactions (cash flow in the settlement account, cash flow in correspondent accounts of non-resident banks). Fulfilling the tasks in this direction consists in the comprehensive use of the capacities of supervisory and law-enforcement authorities regarding the circumstances of acquiring criminally derived income and the mechanism of its subsequent legalisation, including: gathering of primary materials by the pre-trial investigation body (interviews; requests for business accounting documents; submission of queries; use of automated information retrieval systems; use of covert intelligence data; obtaining information constituting banking secrecy); ordering documentary examinations of the activities of business entities (documentary audits and inspections). The developed algorithms of action are indicative for ascertaining the circumstances to be established during the investigation of criminal offences in the sphere of economic activity and are subject to individual adjustment taking into account the circumstances of the criminal proceedings and the investigative situation that has arisen.

Key words: economic crime, economic activity, detection, investigation, criminal

proceedings, investigative (search) actions.

Introduction

Economic crime remains one of the most significant threats to the sustainable development of modern states, undermining financial stability, reducing public confidence in state institutions, and weakening national economic security. The rapid digitalisation of economic relations, expansion of cross-border financial transactions, widespread use of electronic payment systems, and increasing complexity of corporate structures have fundamentally transformed the mechanisms for committing criminal offences in the sphere of economic activity. At the same time, these developments have considerably complicated the process of detecting such offences, which are typically characterised by a high degree of latency, sophisticated concealment mechanisms, and extensive use of legally legitimate business instruments for unlawful purposes (Trach, 2023). The relevance of this issue has become particularly evident in Ukraine under conditions of martial law and large-scale economic transformation. Significant public expenditures, international financial assistance, reconstruction projects, humanitarian aid, and emergency procurement procedures have created additional opportunities for the misuse of financial resources and the development of increasingly sophisticated economic crime schemes. Simultaneously, law enforcement agencies are required to investigate offences committed within rapidly changing regulatory and economic environments while ensuring compliance with procedural guarantees and international standards of criminal justice.

Unlike conventional criminal offences, economic crimes rarely leave obvious material traces at the initial stage of their commission. Their detection primarily depends on the identification, collection, and analytical assessment of fragmented financial, accounting, organisational, and operational information (Cherniavskiy et al., 2017). Consequently, the effectiveness of criminal proceedings is largely determined before the formal commencement of investigative activities, namely during the process of detecting indicators of criminal conduct and verifying the initial operational information. Failures at this stage often result in delayed investigations, destruction of evidence, dissipation of criminal assets, and reduced prospects for successful prosecution.

Although considerable scholarly attention has been devoted to the investigation of economic crime, existing research predominantly focuses on procedural aspects of pre-trial investigation, forensic methodologies for particular categories of offences, or evidentiary issues (Bondarenko, 2019). Comparatively less attention has been paid to the theoretical and methodological foundations of detecting criminal offences in the sphere of economic activity as an independent stage of criminal intelligence and investigative practice. In particular, insufficient attention has been devoted to the systematisation of search elements, the identification of relevant information sources, and the development of practical algorithms that would enable law enforcement authorities to recognise criminal indicators at the earliest possible stage.

This research seeks to address this gap by examining the specific characteristics of detecting criminal offences in the sphere of economic activity from both procedural and criminalistic perspectives. Particular attention is devoted to identifying the principal search elements associated with different categories of economic offences, analysing the sources of operationally significant information, and determining the sequence of actions necessary for the effective collection and verification of primary materials. The study further considers the role of documentary evidence, financial transactions, banking information, and interagency cooperation in ensuring the timely identification of criminal activity.

The purpose of this article is to develop a comprehensive methodological approach to detecting criminal offences in the sphere of economic activity by identifying their

characteristic search elements, systematising sources of primary information, and substantiating practical algorithms that improve the effectiveness of pre-trial investigation during its initial stage. The scientific novelty of the study lies in the integrated analysis of detection as a distinct component of criminal proceedings and in the development of a structured model for organising the search and verification of information concerning economic criminal offences under contemporary conditions of economic digitalisation, increasing financial complexity, and evolving methods of criminal concealment.

Materials and Methods

The methodological framework of this study is based on an interdisciplinary combination of general scientific, special legal, and forensic research methods. Such an approach made it possible to comprehensively examine the process of detecting criminal offences in the sphere of economic activity by integrating theoretical legal analysis with criminalistics and practical aspects of law enforcement.

The empirical basis of the research consists of the current criminal procedural legislation of Ukraine, legislative acts regulating economic activity, banking operations, financial monitoring, and the activities of law enforcement agencies, as well as scientific publications devoted to criminal procedure, criminalistics, operational-search activity, financial investigations, and the methodology for investigating economic crime. Particular attention was paid to scholarly works addressing the initial stage of pre-trial investigation, the organisation of investigative activities, and mechanisms for obtaining primary operational information.

The formal legal (doctrinal) method was employed to analyse the provisions of criminal procedural legislation governing the commencement of pre-trial investigation, procedural mechanisms for obtaining evidence, temporary access to documents, and the legal regulation of banking secrecy. This method enabled the identification of the legal framework within which criminal offences in the sphere of economic activity are detected and documented.

The system-structural method was applied to identify the principal elements of the mechanism for detecting economic criminal offences and to establish the relationships between operational information, documentary evidence, financial transactions, participants in criminal proceedings, and procedural decision-making. This approach facilitated the construction of a comprehensive model of the detection process and the classification of the main search elements characteristic of different categories of economic crime.

Comparative legal analysis was used to evaluate various methodological approaches proposed in Ukrainian criminalistics concerning the organisation of investigative activities at the initial stage of criminal proceedings. The comparison of doctrinal positions made it possible to identify common theoretical principles and distinguish those methodological recommendations that remain effective under contemporary conditions of economic digitalisation and increasingly sophisticated financial crime schemes.

The methods of analysis and synthesis were employed to systematise information concerning sources of operationally significant data, categories of documentary evidence, financial transactions, and organisational measures used in detecting criminal offences in the sphere of economic activity. Analytical decomposition of individual procedural elements followed by their synthesis into a unified methodological framework enabled the formulation of practical algorithms applicable to investigative practice.

The logical and functional methods were used to determine the sequence of actions performed by investigators and operational officers during the initial stage of criminal

proceedings, to establish causal relationships between investigative actions and evidentiary objectives, and to assess the role of financial documentation, banking information, and interagency cooperation in detecting criminal conduct.

The study also employed the method of scientific generalisation, which made it possible to formulate conclusions regarding the characteristic features of economic crime detection, identify the principal factors influencing the effectiveness of investigative activities, and propose a structured methodological approach to organising the search for primary information concerning criminal offences in the sphere of economic activity.

The combination of these research methods ensured the consistency, objectivity, and scientific reliability of the findings and enabled the development of practical recommendations aimed at improving the effectiveness of detecting economic criminal offences under contemporary conditions characterised by financial digitalisation, increasing complexity of economic relations, and the transformation of criminal concealment techniques.

Results and Discussion

The current state of Ukraine's economy is characterised by macroeconomic instability and periodic crisis phenomena that foster the expansion of the shadow economy. Particularly dangerous is its fictitious component, associated with the illegal withdrawal of financial resources from legitimate economic circulation, the redistribution of substantial profits in favour of individual business entities, and the transfer of capital beyond the country's borders. Such processes adversely affect the state of economic security and exacerbate socioeconomic problems.

The complex economic situation, wartime challenges, political instability, and the expansion of temporarily occupied territories directly affect the dynamics and structure of criminal offences in the sphere of economic activity. The methods of committing such acts, the mechanisms of concealment, and the forms of utilising financial resources are undergoing transformation. Additional factors complicating an effective response by the law-enforcement system include insufficient coordination between law-enforcement bodies, imperfections in regulatory frameworks, high levels of corruption risks, and the proliferation of shadow economic schemes.

The Criminal Procedure Code of Ukraine (2012) initiated a substantial reform of the pre-trial investigation procedure. Subsequent amendments to criminal procedural legislation testify to the ongoing modernisation of criminal justice mechanisms. The necessity of such changes is explained by the need to create an effective system for countering contemporary forms of economic crime that would combine guarantees of the protection of individual rights with the efficiency and effectiveness of criminal proceedings (Vakulik, 2013).

Concurring with scholarly approaches regarding the essence of pre-trial investigation, it should be noted that it constitutes activity regulated by criminal procedural law, conducted by authorised bodies and directed at identifying the indicators of a criminal offence, establishing implicated persons, gathering and verifying evidentiary information, as well as ensuring lawfulness and the protection of the rights of participants in criminal proceedings (Tatarov, 2012).

The initial stage of an investigation is of decisive importance for the subsequent effectiveness of criminal proceedings, since it is at this stage that active searching, recording, and securing of evidentiary information takes place. In practice, its conduct is complicated by the limited volume of primary information, insufficient training levels among certain law-enforcement officers, and the high latency of criminal offences in the sphere of economic activity (Trach, 2023).

As V.S. Kuzmichov notes, the initial stage of investigating criminal offences in the sphere of economic activity is used to denote certain stages of the pre-trial investigation process itself, at each of which the investigator carries out investigative (search) actions and organisational measures to establish the event of the criminal offence (Kuzmychov, 2005).

Countering criminal offences in the sphere of economic activity remains one of the most problematic areas of law-enforcement activity. A significant portion of such acts is characterised by a high degree of concealment, since managers of enterprises or financial institutions frequently refrain from contacting law-enforcement authorities due to the risk of reputational damage. Furthermore, business entities do not always ensure proper management of claims and litigation, which negatively affects the evidential process. Persons involved in committing economic criminal offences actively employ mechanisms for disguising unlawful activity: engaging fictitious enterprises, drawing up sham transactions, falsifying financial documentation, using electronic means to conceal illegal operations, and laundering criminally derived funds (Cherniavskiy et al., 2017).

One of the most essential requirements for the decision to initiate pre-trial investigation is its promptness. A timely response enables procedural actions to be brought closer to the moment of commission of the criminal offence, which increases the effectiveness of recording evidence and establishing the circumstances of the event. Delays in commencing an investigation create conditions for concealing or destroying traces of the criminal offence, losing evidentiary information, and complicating the establishment of truth in the proceedings. Over time, the scene changes, material traces are lost, and witnesses may forget important circumstances or become unavailable to the investigation. A particular danger is posed by the deliberate actions of offenders aimed at concealing unlawful activity and eliminating evidence (Mykheenko et al., 1999).

It is universally recognised in criminal process that proper and timely determination of the subject matter of proof substantially affects the organisation of pre-trial investigation. Under such conditions, the activities of the investigator and the prosecutor acquire greater consistency, purposefulness, and effectiveness, facilitating the establishment of circumstances that are material to the criminal proceedings. Unjustified expansion of the scope of proof leads to the extension of pre-trial investigation timeframes, an increase in procedural costs, and excessive accumulation of information that is not materially significant to the case. At the same time, groundless narrowing of the subject matter of proof may result in incomplete and one-sided investigation, create the impression of a biased attitude on the part of the prosecution towards the suspect, and adversely affect the outcome of judicial proceedings. Ultimately, this may cause an insufficiency of evidence for the court to render a lawful and reasoned decision (Baulin, 2015).

The key circumstances that complicate the investigation of unlawful acts in the sphere of economic activity include: shortcomings in the existing criminal legislation; insufficient levels of coordination and information exchange between law-enforcement bodies; corruption risks and obstruction by interested parties; the necessity of simultaneously proving the commission of the predicate criminal offence; the use by offenders of complex mechanisms for legalising illegally obtained funds; the absence of effective methodological guidance on investigation; and improper organisation of the investigator's work at the initial stage of pre-trial investigation (Bondarenko, 2019).

In this connection, the typical algorithm of action for pre-trial investigation bodies must begin with:

- 1) examining the system for organising production (issues of management organisation, procurement systems, performance of work, payroll calculation and disbursement procedures, documentary and accounting records);
- 2) determining the nature and extent of damage caused by the criminal offence (taking into account price dynamics, the inflation index, norms, and tariffs);

3) detecting and securing traces of the criminal offence (examination of various categories of documents, inspection and survey of sites of economic works, storage of materials, equipment, etc.);

4) establishing connections with other offences (all episodes of criminal activity, indicators of related and concomitant criminal offences);

5) identifying the causes and conditions that facilitated the commission of the criminal offences (Tishchenko, 2007; Orlov et al., 2004).

At the same time, where indicators of criminal offences in the sphere of economic activity committed by a person with abuse of official position are detected, a somewhat different sequence of actions must be followed, in particular:

- familiarise oneself with the regulatory framework governing the activities of officials or persons entrusted with property, as well as the sources of financing for particular economic processes, with a view to subsequently determining the tactics of action;

- verify the validity of estimates and plans, including by comparing them with the volume and cost of work actually performed and the corresponding data in reporting, and obtaining information on financial transactions involving budget funds;

- request copies of financial, economic, and other documents concerning the performance of economic works, the quantity of materials actually used and available in the warehouse, their conformity with the nomenclature specified in the design and estimate documentation, and workers' remuneration;

- establish, by obtaining statements from workers, foremen, and persons who compiled and signed materials write-off acts, the actual scope of work performed, on whose instructions such work was carried out, what materials were used, who supplied the materials, in what quantities, etc.;

- measure the completed work in situ to determine the actual quantity of materials used, conduct inventories and other control measures;

- submit requests to banking institutions (branches of the State Treasury Service) to whose accounts funds were transferred under works contracts and payment orders for work performed (or fictitiously performed);

- inspect and examine seized documents for traces of material and intellectual falsification.

The principal areas of searching for indicators of unlawful acts are:

6) state authorities, specifically: (a) state authorities that may hold information on unlawful acts by economic entities; (b) state authorities that hold information on indicators of specific criminal offences related to the involvement of organised groups in economic activity; (c) state authorities that carry out the registration and licensing of economic entities; (d) primary financial monitoring entities — banking institutions and their counterparties in the course of financial transactions;

7) financial transactions (cash flow in the settlement account, cash flow in correspondent accounts of non-resident banks);

8) documents. Of significant importance in the detection of unlawful acts in the sphere of economic activity is the simultaneous examination of all categories of documents in which information concerning the circumstances to be established is reflected (Cherniavskiy, 2010).

The primary focus of investigative (search) actions in such criminal proceedings consists in establishing the persons implicated in the commission of the criminal offence, as well as identifying forged or falsified documents that were used in concluding a credit agreement and submitted to the creditor for the purpose of obtaining financing. Such documents may include: decisions or directives of the head of the banking institution

regarding the granting of credit; conclusions of the credit department on the advisability of lending and the assessment of the borrower's creditworthiness; minutes of meetings of the credit committee or other collegial body of the bank; orders for the opening of a loan account and the transfer of credit funds; credit agreements and annexes thereto; pledge agreements; and documents evidencing the fictitious nature of the economic entity's activity.

The latter category may include certificates concerning the founders of the enterprise, documents on the non-issuance of seals, licences, or certificates, records of failure to submit tax reporting or cessation of cash flow in accounts, acts attesting to the absence of the enterprise at its registered address, court decisions annulling registration documents, falsified balance sheets, forged certificates of financial condition or documents on ownership of property pledged as collateral, as well as guarantee letters bearing indicators of falsification (Cherniavskiy, 2003)..

Criminal offences in the sphere of bank lending constitute a distinct category of intentional socially dangerous acts in the sphere of economic relations, which encroach upon that part of such relations arising between a bank (creditor) and a client (borrower) on the basis of a credit agreement regarding the bank's monetary funds transferred to the borrower on the terms of time-boundedness, payment, repayment, security, and targeted use. The subject of encroachment is the bank's credit resources in the form of monetary funds.

Moreover, pursuant to Part 1 of Article 60 of the Law of Ukraine "On Banks and Banking Activity", information concerning the activity and financial status of a client that became known to the bank in the course of servicing the client and in its relations with the client or third parties in the provision of bank services constitutes banking secrecy. The content of banking secrecy comprises information on clients' bank accounts, on transactions carried out in favour of or on the instructions of the client, agreements concluded by them, the financial and economic status of clients, information relating to the commercial activity of clients or commercial secrets, any plans, inventions, product samples, and other commercial information (Verkhovna Rada of Ukraine, 2000).

The specificity of investigating criminal offences in the sphere of economic activity consists in the necessity of accessing information constituting banking secrecy. A bank is not entitled to refuse to present or provide documents or copies thereof, or other items referred to in a court ruling on temporary access to objects and documents (Article 164 of the CPC of Ukraine) (Criminal Procedure Code of Ukraine, 2012).

Thus, subjects combating crime in the sphere of economic activity face new tasks regarding the definition of strategic directions for their activities and the search for new approaches commensurate with contemporary realities and capable of proving effective. In this direction, the search for new ideas and approaches to creating a qualitatively new mechanism for detecting criminal offences in the sphere of economic activity is of paramount importance.

The initial stage of investigation is directed at the intensive search, detection, and securing of evidence. The difficulties at the initial stage are caused by the insufficient quality and quantity of primary materials, as well as the low qualifications of investigators and operative officers. Surveyed investigators confirmed that criminal proceedings for predicate offences are typically closed at the stage of pre-trial investigation (44% and 49% respectively) or referred to court, yet without trial prospects (38% and 47%). Factors objectively complicating the investigation process include: imperfections in the existing criminal legislation (identified by 54% of respondents); inadequate levels of interaction among law-enforcement bodies and information exchange (45%); manifestations of corruption and obstruction by interested parties (42%); and the need to simultaneously carry out a complex of procedural (overt and covert) actions.

The following circumstances are subject to establishment:

- 1) examination of the system for organising production (issues of management organisation, procurement systems, performance of work, payroll calculation and disbursement procedures, documentary and accounting records);
- 2) determination of the nature and extent of damage caused by the criminal offence (taking into account price dynamics, the inflation index, norms, and tariffs);
- 3) detection and securing of traces of the criminal offence (examination of various categories of documents, inspection and survey of sites of economic works, storage of materials, equipment, etc.);
- 4) establishment of connections with other offences (all episodes of criminal activity, indicators of related and concomitant criminal offences).

However, where indicators of criminal offences in the sphere of economic activity committed by a person with abuse of official position are detected, a somewhat different sequence of actions must be followed, in particular: familiarise oneself with the regulatory framework governing the activities of officials or persons entrusted with property, as well as the sources of financing for particular economic processes, with a view to subsequently determining the tactics of action; verify the validity of estimates and plans, including by comparing them with the volume and cost of work actually performed and the corresponding data in reporting, and obtaining information on financial transactions involving budget funds; request copies of financial, economic, and other documents concerning the performance of economic works, the quantity of materials actually used and available in the warehouse, their conformity with the nomenclature specified in the design and estimate documentation, and workers' remuneration; establish, by obtaining statements from workers, foremen, and persons who compiled and signed materials write-off acts, the actual scope of work performed, on whose instructions such work was carried out, what materials were used, who supplied the materials, in what quantities, etc.; measure the completed work in situ to determine the actual quantity of materials used, conduct inventories and other control measures; submit requests to banking institutions (branches of the State Treasury Service) to whose accounts funds were transferred under works contracts and payment orders for work performed (or fictitiously performed); inspect and examine seized documents for traces of material and intellectual falsification.

Accordingly, the current state of economic crime demands the improvement of mechanisms for detecting and investigating criminal offences in the sphere of economic activity. The effectiveness of countering such acts largely depends on the proper organisation of the initial stage of pre-trial investigation, timely obtaining of evidentiary information, and the comprehensive use of procedural and criminalistics means.

The formation of contemporary methodological approaches to the investigation of economic criminal offences, adapted to the conditions of digitalisation of financial processes, the development of shadow economic schemes, and the transformation of methods of concealing unlawful activity, is of special significance.

4. Conclusions

The conducted research demonstrates that the effectiveness of combating criminal offences in the sphere of economic activity largely depends on the quality of their detection during the earliest stages of criminal proceedings. The latent nature of economic crime, the increasing complexity of financial transactions, the use of sophisticated mechanisms for concealing unlawful activity, and the digitalisation of economic relations significantly complicate the identification of criminal indicators and require the application of comprehensive methodological approaches by law enforcement authorities.

The study substantiates that the process of detecting criminal offences should be

regarded as an independent and systematic component of pre-trial investigation rather than merely a preliminary procedural stage. Its effectiveness is determined by the timely identification, collection, verification, and analytical assessment of operationally significant information obtained from financial transactions, accounting documentation, banking records, regulatory authorities, business entities, and other relevant information sources. The integrated use of these sources enables investigators to establish formal correspondence between the available information and the characteristic features of particular categories of economic criminal offences, thereby facilitating the prompt initiation of criminal proceedings and the preservation of evidentiary information.

The research identifies the principal search elements that characterise criminal offences in the sphere of economic activity, including the sphere of economic relations in which unlawful conduct occurs, the relevant objects and subjects of criminal activity, documentary and financial evidence, sources of operational information, and tactical methods of obtaining evidentiary data. Their systematic classification contributes to improving the organisation of investigative activities and supports the development of practical algorithms for detecting economic crime under contemporary conditions.

The findings further demonstrate that effective detection of economic criminal offences requires close interaction between investigators, operational units, financial monitoring institutions, banking organisations, supervisory authorities, and other competent public bodies. The growing digitalisation of financial processes and increasing complexity of illicit financial schemes necessitate broader use of analytical methods, digital information resources, financial intelligence instruments, and interagency information exchange while maintaining compliance with procedural safeguards and the protection of individual rights.

The scientific contribution of this study lies in the systematisation of methodological approaches to detecting criminal offences in the sphere of economic activity through the identification of characteristic search elements, the classification of primary information sources, and the substantiation of practical algorithms applicable during the initial stage of criminal proceedings. Unlike existing studies that predominantly focus on investigative procedures after criminal proceedings have commenced, this research conceptualises detection as a distinct methodological component that substantially influences the overall effectiveness of criminal investigation.

The practical significance of the research consists in the possibility of applying the proposed methodological recommendations in the activities of investigators, detectives, operational officers, prosecutors, and other law enforcement practitioners involved in combating economic crime. The proposed approach may also be used in professional training programmes and for improving methodological guidance concerning the investigation of criminal offences in the sphere of economic activity.

Future research should focus on developing digital forensic methodologies for detecting economic crime, integrating artificial intelligence and financial analytics into criminal intelligence processes, strengthening interagency information exchange, and adapting investigative methodologies to emerging forms of cyber-enabled economic crime and virtual asset-related offences.

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