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### FEATURES OF THE USE OF SPECIAL KNOWLEDGE IN THE INVESTIGATION OF ILLEGAL OCCUPATION BY FISH, ANIMAL OR OTHER WATER MINING

**Віктор Плетенець. ОСОБЛИВОСТІ ВИКОРИСТАННЯ СПЕЦІАЛЬНИХ ЗНАТЬ ПРИ РОЗСЛІДУВАННІ НЕЗАКОННОГО ЗАЙНЯТТЯ РИБНИМ, ЗВІРИНИМ АБО ІНШИМ ВОДНИМ ДОБУВНИМ ПРОМИСЛОМ.** Стаття присвячена розгляду особливостей використання спеціальних знань при розслідуванні незаконного зайняття рибним, звіриним або іншим водним добувним промислом. Серед заходів, спрямованих на подолання існуючих обставин вбачається у підвищенні фаху уповноважених осіб та розширенні можливостей залучення до проведення окремих слідчих (розшукових) дій спеціалістів відповідного профілю діяльності. Наголошується, що використання знань при проведенні слідчих (розшукових) дій в рамках розслідування кримінальних правопорушень проти довкілля взагалі та незаконного зайняття рибним, звіриним або іншим водним добувним промислом зокрема, обумовлено потребою залучення фахівців зі спеціалізованими знаннями у відповідній галузі, напрямку діяльності. В статті підкреслюється, що виявлення фіксація й вилучення слідів інформації, досить часто, визначається необхідністю здійснення разом із її носіями, знаряддями незаконного зайняття рибним, звіриним або іншим водним добувним промислом.

Звертається увага, що на розсуд уповноваженої особи можуть залучатись й фахівці інших галузей знань до проведення всіх слідчих (розшукових) дій. Водночас, спрямована на підвищення ефективності діяльності уповноважених осіб може мати багато векторів, де залучення фахівців з відповідного роду знаннями, вміннями та навичками, профілю діяльності до участі в слідчих (розшукових) дій може визначатись ключовим з них. В дослідженні стверджується, що ефективність, як критерій використання спеціальних знань, доцільно розглядати одним із способів підвищення якості діяльності уповноважених осіб в реалізації завдань кримінального провадження. При цьому ретельна підготовка до проведення кожної окремої слідчої (розшукової) дії обумовлює, необхідність визначення спеціалістів, державних чи громадських організацій, зокрема й міжнародних, яких доцільно залучити.

**Ключові слова:** кримінальні правопорушення проти довкілля, виявлення й документування суспільно-небезпечного діяння, незаконне здійснення рибного, звіриноного або іншого водного добувного промислу, обстановка вчинення кримінального правопорушення, засоби й знаряддя реалізації злочинного задуму, уповноважені особи, спеціальні знання, спеціаліст, організація розслідування та слідчих (розшукових) дій.

**Relevance of the study.** Environmental wrongful acts do not have such a spread, for example as crimes against property. At the same time, the judicial perspective of any criminal proceedings becomes possible only in the case of a complete and comprehensive establishment of all circumstances. This can be done, in particular, by using the relevant subjects of modern technical and forensic means. The required speciality of specialists of the relevant activity profile affects the effectiveness of the activities of authorized persons and the judicial perspective of the investigated criminal proceedings.

Of great importance in combating environmental offenses is the activities of both domestic and foreign public and state organizations, among which are the following: World

Wildlife Fund (WWF) [1], which has a representative office in Ukraine [2], Greenpeace [3] with a representative office in our country [4], the International Union for Conservation of Nature (IUCN) [5]. International Green Cross (Global Green) [6] and others.

The activities of these and other organizations are focused on countering, to one degree or another, the most acute problems of the world in changing global values, based on advanced public projects, innovative research, environmental policy, environmental protection, stopping the degradation and maintenance of the natural systems of our planet. At the same time, the main directions of their activity are focused on the protection of seas and oceans, freshwater reservoirs and forests, the preservation of species of flora and fauna, minimization of the use of toxic substances, climate change.

In addition to this, they assist law enforcement agencies in identifying and eliminating relevant manifestations of offenses against environmental safety. Accordingly, the expertise and experience gained by these organizations and their employees can be used by law enforcement agencies of our state in identifying relevant acts against the environment, assessing the consequences for the environment and the damage caused, as well as determining ways to overcome them. This will ensure the correct qualification of the actions of the relevant subjects with a legal assessment in both state and international judicial institutions.

Thus, the use of special knowledge of relevant specialists should not be limited to state or public organizations of our country.

**Resent publications review.** At the same time, it is worth noting that the use of special knowledge was given considerable attention by a significant number of scientists, in particular: V. Bakhin, V. Bernaz, V. Veselsky, A. Volobuev, V. Galagan, V. Zhuravlya, A. Ishchenko, N. Karpov, N. Klimenko, V. Kovalenko, A. Kolesnichenko, V. Konovalova, V. Korzh, A. Kofanov, V. Kuzmichev, V. Lisichenko, V. Lukashevich, E. Lukyanchikov, G. Matusovsky, O. Oderi, I. Pyrih, B. Romanyuk, M. Saltevsy, Z. Sokolovsky, R. Stepanyuk, V. Tishchenko, L. Udalova, O. Frolov, P. Tsymbal, V. Tsirkal, Yu. Chernous, V. Shepitko, M. Shumilo, M. Shcherbakovsky and others.

At the same time, the issues of using special knowledge in the investigation of illegal fishing, animal or other water mining in the present conditions require due attention and revision of the achievements of scientists who paid attention to this direction of research. Special importance is acquired in the conditions of martial law and other emergencies introduced in Ukraine by authorized persons to carry out activities to identify and collect evidence on illegal fishing, animal or other water mining.

**The article's objective.** The article is aimed at highlighting the peculiarities of the use of special knowledge in the investigation of illegal fishing, animal or other aquatic extractive fishing

**Discussion.** Among the measures aimed at overcoming the existing circumstances, we see in increasing the expertise of authorized persons and expanding the possibilities of involving specialists of the relevant activity profile in conducting individual investigative (search) actions. Article 71 of the CPC stipulates that a specialist in criminal proceedings is a person who has special knowledge and skills in the use of technical or other means and can provide advice during pre-trial investigation and trial on issues requiring relevant special knowledge and skills [7].

In turn, Z. Sokolovsky, under special knowledge, perceives a set of information obtained as a result of professional special training, which creates for the person who owns them the possibility of solving issues in any field [8, pp. 202-204].

Special knowledge B. Romaniuk defines as a set of scientifically based information of a separate (special type), which is possessed by persons - specialists within the framework of any profession in various fields of science, technology, art and craft, and, in accordance with the norms of criminal procedural legislation, use them for successful solving the problems of criminal justice [9, p. 57].

It is worth noting that the following C. M. Sokolovsky and B. Romanyuk loans coincide in the fact that they determine the special knowledge of the relevant person in any field, profession, industry. However, we believe that it would be more correct to state about the appropriate direction or a single industry, where a person can perfectly possess the appropriate level of knowledge, skills, experience of activities that are not common. Thus, the number of spheres of human activity in the modern world can be characterized by its diversity, which necessitates the possession of the appropriate level of knowledge and experience in a specifically defined, and not in all directions. The above-mentioned acquires the corresponding

significance during the organization of the investigation of criminal offenses qualified under Articles 236-254, which are included in Section VIII "Crimes against the Environment" of the Criminal Code of Ukraine [10], which may be characterized by diversity of both manifestations of socially dangerous acts and the collection of evidence base for them.

At the same time, as O. Oderiy emphasizes, the beginning of criminal proceedings is complicated by the circumstances that law enforcement officers often do not know the essence of the forensic characteristics of a particular type of offenses against the environment, underestimate the urgency of identifying and removing material traces, documents necessary for expert research [11, p. 178].

Accordingly, the use of knowledge in conducting investigative (search) actions in the investigation of criminal offenses against the environment in general and illegal fishing, animal or other water mining in particular, is due to the need to attract specialists with specialized knowledge in the relevant field, direction of activity.

No less important is the fact that the method of obtaining knowledge, as emphasized by W.M. Waldman, is one of the criteria for determining special knowledge [12, pp.5-6].

Accordingly, the knowledge gained by the authorized person during the training and the experience of their practical application should be assessed as professional. However, the insufficiency of any of these components may call into question the speciality and assessment of the possession of relevant knowledge as special, and hence the appropriate level of their application.

It should be noted that the possession, for example by an authorized person of knowledge in the appropriate direction, of a field of knowledge with the possibility of their application cannot be regarded as special for this subject. This is because knowledge in the field of forensic science is considered professional for the authorized person. But it is impossible to demand from the investigator in-depth knowledge of certain branches of forensic technology and forensic examination [13, p. 14].

Thus, special for the authorized person will be those knowledge that he does not have or does not have enough, which necessitates the involvement of subjects who are their carriers at the professional level. At the same time, the possession by an authorized person of the necessary level of knowledge and experience in their application does not exclude the possibility of attracting as specialists persons specializing in the same direction of activity.

It should be noted that the primary investigative (detective) action, with which, quite often, the fixation of the criminal offense in question begins, is a review. Part 1 of Article 237 of the Criminal Procedure Code of Ukraine determines that in order to identify and record information about the circumstances of a criminal offense, the investigator, prosecutor inspect the area, premises, things, documents and computer data [7].

It should be emphasized that the inspection of the scene is an investigative (investigative) action, the purpose of which is to study the material situation of the scene through its direct personal perception by the investigator, other participants in the inspection in order to identify, fix and extract traces of a criminal offense and other material evidence, to clarify the mechanism of the incident and other circumstances that are important for the proceedings [14, p. 333].

In many cases, when conducting one investigative (detective) action, the joint and simultaneous participation of several specialists is necessary. Thus, the investigator to inspect the place of the polluted river involved two specialists: an employee of the environmental inspection and a process engineer [15, p.809].

The given example can be used also for attraction of experts of the corresponding profile of activity during documenting of facts of illegal occupation by fish, animal or other water extractive trade.

At the same time, the definition for involving specialists of the appropriate profile who will be part of the investigative-operational group should be carried out as preparatory actions for departure to the scene [16, p. 229]. At the same time, the authorized person should take into account that upon arrival at the inspection site, there may be a need to attract specialists and other activities.

Their involvement is carried out in order to identify tools, means of committing criminal offenses in the field of ecology in general and illegal employment in fish, animal or other water mining in particular. Thus detection of fixation and removal of traces of information, quite often, is defined by necessity of realization together with its carriers, tools of illegal employment by fish, animal or other water extractive trade. These include: explosive

and toxic substances; electric current; prickly fishing gear; firearms and air guns (with the exception of harpoon rifles for spearfishing); industrial and other fishing tools made of mesh-net materials of all kinds and names, catching crayfish in the dark with the use of lighting [17, p. 123].

At the same time, the given set of tools that can be used to commit illegal occupation by fish, animals or other aquatic extractive industries is not exhaustive and can be expanded at the expense of tools that are prohibited by the use, in particular:

- electric fishing devices, prickly fishing gear, partial trawls, tulle nets and fibers in all water bodies throughout the year;
- partial casting nets and red tape in the reservoirs of the Dnieper and Seversky Donets – from the end of the spring ban until September, 20;
- nets with an eye of 52-68 mm in the Dnieper reservoirs, in all other water bodies – nets with an eye of 42-68 mm;
- grids with a length of more than 35 meters in small rivers and other water bodies with an area of up to 5,000 hectares and more than 70 meters – in water bodies with an area of more than 5,000 hectares [18].

These objects should be identified, investigated and removed with the involvement of, for example, specialists of fish inspection. These same specialists can determine the type, approximate age of the caught prey and orient the damage caused by illegal activities.

Preliminary evaluation of detected objects as fishing tools can help to obtain criminalistically significant information for the construction and development of versions in search of not yet established circumstances of the committed criminal offense.

No less attention should be paid to the detection and removal of micro-leads and micro-objects that may be carriers of information about a wrongful act. They, for the most part, are identified and seized at the points of contact of the relevant instruments of committing a criminal offense with other objects. The implementation of this, for the most part, relies on forensic specialists.

No less important is the discovery of the facts of committing illegal fishing, animal or other water mining in social networks on computer data carriers, including phones, as well as social networks. As N.V. Pavlova notes, the specialist will also assist in examining web pages and websites, user accounts in social networks with the subsequent storage and printing of a screenshot with criminalistically significant information [19, p. 65], where information on illegal fishing, extractive or other fishing is often distributed by relevant persons.

An important place in the activities of relevant specialists in fixing illegal acts against the environment is occupied by the applied scientific and technical means. At the same time, as V. Honcharenko emphasizes, special knowledge that meets the requirements of the modern development of science and can be used in the field of criminal procedural activity: in order to prove certain circumstances of the criminal case, collect and consolidate evidence, etc. [20, p. 11].

Modern capabilities of technical and forensic means in the identification, fixation and extraction of significant information determines the possibility of their use in the conduct of all without exception investigative (search) actions. Based on the generalization of materials of criminal proceedings, it can be argued that the involvement of a specialist in conducting examinations, interrogations, searches, investigative experiments, etc. allows obtaining the necessary evidence confirming the involvement of specific persons in illegal activities [21, pp. 448-449]. The given list of investigative (search) actions can be characterized as one that most often involves specialists, but the need for their participation is determined by the investigator in each case.

Of great importance in the investigation of criminal offenses against the environment and such manifestations as illegal fishing, animal or other water mining is the review of documents. During this, the investigator needs to study the general appearance and condition of the documents, their details; establish the circle of persons who had the right to certify specific documents with their personal signature and (or) stamp of the agricultural enterprise; determine their purpose [22 p. 14].

In this case, the documents can be those that provide the appropriate permission to catch fish, crayfish with a definition of the place, time, means of catching, and the permitted amount of catch, identity, used water-motor vehicles, etc.

A significant place in the familiarization can be acquired by the possibility of detecting signs of forgery, not matching any component granted by the permission and the revealed

violation. Documents can act as material evidence if they were an instrument of committing a criminal offense, retained its traces or contain other information that can be used as evidence of a fact or circumstances established during criminal proceedings [23, p.144].

To solve the problems of criminal proceedings, not only information occupies a significant place, materials contained in the document, as well as the state of the document, materials used for its execution, the presence of requisites, records and methods of its implementation, etc. This can help to identify non-compliance of permits and the identified catch, mining, which can be carried out with the involvement of a specialist of the appropriate activity profile, first of all, fish inspectorates, representatives of the society of hunters and fishermen [24].

The possibility of identifying the changes made to the priority content of documents can be carried out by involving forensic specialists.

No less important in obtaining information about the circumstances of the committed criminal offense is the involvement of specialists in conducting interrogations.

During interrogation, the volume and types of necessary special knowledge are determined by the investigator depending on the type of crime, the person being interrogated, the method of committing the crime, the number of collected material evidence, etc. [25 p. 283].

Part. 1 Art. 224 of the CPC of Ukraine determines that each witness is questioned separately, without the presence of other witnesses, and in accordance with Part 2 of Art. 224 of the CPC, he is warned of criminal liability for refusing to testify and for knowingly giving false testimony [7].

At the same time, the interrogation should be characterized by the clarity of the definition of the subject with the detailing of the content of the event. Significant importance in establishing psychological contact, as a key component of effective interrogation, may consist in attracting such specialists as a psychologist. Determination of the list and sequence of questions and tactics can increase the effectiveness of interrogation and other investigative (search) actions. Minimizing the possibility of forming a conflict situation, for example during simultaneous interrogation, can be regarded as a prevention of the formation of manifestations of counteraction to the pre-trial investigation.

No less important is such investigative (search) action as a search. Specialists of the relevant activity profile may also be involved in its conduct. The effectiveness of the search nature of this procedural action determines the need for appropriate training, within which the election of specialists should be given significant importance. At the same time, as specialists can be involved those who have already participated in inspections or other investigative (search) actions. This will contribute to a better orientation of these specialists during the search, because, having information about the circumstances of the criminal offense, tools and their components, the necessary tools, they will be able, with a greater degree of probability, to find the desired items [26, p.142].

At the discretion of the authorized person, specialists of other branches of knowledge may also be involved as to the investigative (search) actions considered by us. At the same time, the activity of authorized persons aimed at increasing efficiency can have many vectors, where the involvement of specialists with the appropriate kind of knowledge, skills and abilities, activity profile to participate in investigative (search) actions can be determined by the key one. At the same time, efficiency, as a criterion for using special knowledge, should be considered one of the ways to improve the quality of the activities of authorized persons in the implementation of criminal proceedings. The above, according to P. P. Mikhailenko, contributes to the observance of such a principle of pre-trial investigation as objectivity [27, p. 890]. At the same time, careful preparation for each individual investigative (detective) action determines the need to identify specialists, state or public organizations, including international ones, which should be involved.

**Conclusions.** Of great importance in obtaining the necessary information about the circumstances of illegal fishing, animal or other water mining is the conduct of such investigative (search) actions as: inspection, interrogation, search and others. Improving the effectiveness of the activities of authorized persons can have many vectors, where the involvement of specialists of state or public organizations, including international ones, who have the appropriate kind of knowledge, skills and abilities, the activity profile to participate in investigative (search) actions can be determined by the key. At the same time, it is advisable to consider efficiency as a criterion for using special knowledge during the investigation of illegal

fishing, animal or other water mining as one of the ways to improve the quality of the activities of authorized persons in the implementation of criminal proceedings.

The directions of our further research will focus on the specifics of investigating other criminal offenses against the environment.

*Conflict of Interest and other Ethics Statements*

The author declares no conflict of interest.

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#### ABSTRACT

The article is devoted to the consideration of the peculiarities of the use of special knowledge in the investigation of illegal fishing, animal or other water mining. Among the measures aimed at overcoming the existing circumstances is seen in increasing the expertise of authorized persons and expanding the possibilities of involving in the conduct of individual investigative (search) actions of specialists of the corresponding activity profile. It is noted that the use of knowledge in conducting investigative (search) actions in the investigation of criminal offenses against the environment in general and the illegal occupation of fish, animal or other water mining in particular is due to the need to attract specialists with specialized knowledge in the relevant field, direction of activity. The study argues that careful preparation for each individual investigative (detective) action determines the need to identify specialists, state or public organizations, including international, which should be involved.

**Key words:** *criminal offenses against the environment, identification and documentation of a socially dangerous act, illegal implementation of fish, animal or other water mining, the situation of committing a criminal offense, means and tools for implementing a criminal plan, authorized persons, special knowledge, specialist, organization of investigation and investigative (search) actions.*

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#### PROBLEMS OF FORMATION AND USE OF FORENSIC RECORDS FOR OPERATIONAL AND INVESTIGATIVE PURPOSES

**Ігор Пиріг, Сергій Прокопов. ПРОБЛЕМИ ФОРМУВАННЯ ТА ВИКОРИСТАННЯ КРИМІНАЛІСТИЧНИХ ОБЛІКІВ ОПЕРАТИВНО-РОЗШУКОВОГО ПРИЗНАЧЕННЯ.** У статті приділено увагу одному з напрямків інформаційно-довідкового забезпечення розслідування, а саме формуванню та використанню криміналістичних обліків оперативно-розшукового призначення, що зосереджені на трьох рівнях – центральному, регіональному та місцевому. Розглянуто детальніше окремі види оперативно-розшукових обліків, залежно від об'єктів, відомості про які містяться в кожному конкретному обліку, а також завдання та порядок отримання з них криміналістично значущої інформації, звертаючи увагу на проблеми, що існують в експертній діяльності з їх формування та ведення.

При розгляді функціонування дактилоскопічного обліку приділено увагу його реалізації з використанням програмно-апаратного комплексу АДІС «Дакто-2000», що дає можливість оперативно здійснювати обробку дактилоскопічної інформації та пошук необхідних відомостей щодо осіб певної категорії. Окрему увагу в статті приділено балістичному обліку, оскільки на сьогодні, у зв'язку з розв'язаною російською війною проти нашої країни, збільшилась кількість кримінальних правопорушень, що вчиняються з використанням зброї. Кулегільзотеки, що

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