THE ROLE OF TACTICAL OPERATIONS IN IMPROVING THE EFFICIENCY OF INVESTIGATION OF UNAUTHORIZED OCCUPATION OF LAND AND UNAUTHORIZED CONSTRUCTION

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Abstract. The article is devoted to the study of the role of tactical operations in improving the efficiency of the investigation of unauthorized occupation of land and unauthorized construction. The analysis of scientific approaches to problems of efficiency of investigation by means of tactical operations is carried out, the author's vision of this problem is expressed. It is proposed to consider the effectiveness of the investigation of unauthorized occupation of land and unauthorized construction as the final desired result of purposeful, systematic activities of pre-trial investigation (investigators, NABU detectives, DBI), which consists in collecting, examining evidence, establishing objective truth in the case tasks of the investigation, due to their rational use of the optimal set of certain actions and (or) measures, which leads to the expected successful results (consequence) criminal proceedings.

Introduction. One of the defining trends in the development of modern criminalistics and investigative practice is the development of problems to improve the effectiveness of the fight against crime by introducing comprehensive tactical tools related to solving certain tactical tasks caused by investigative situations [1, p. 23–27]. At the same time, a comprehensive approach to the investigation of crimes has long historical roots, as the emergence of the first methods of combating crime is closely linked with the emergence of special techniques and means of investigation, including a comprehensive direction [2, p. 11]. Today, among the theoretical problems of criminalistic tactics of interest is the concept of tactical operations as a kind of investigation that combines organizational, investigative and operational-investigative actions for rapid and effective solution of investigative tasks. [3, p. 68].

The development of criminalistic tactics is characterized by the development of the most appropriate sets of investigative actions, operational and investigative and organizational (or organizational and technical) measures in relation to individual tactical tasks of the investigation and investigative situations [4, p. 147]. In this aspect, special attention is paid to tactical operations, which are an effective means of implementing pre-trial investigation methods, solving certain tactical tasks and creating favorable conditions for the investigation, by saving time and effort of the subjects of pre-trial investigation.

At the same time, in today's reality there are a number of problems related to the use of tactical operations in the investigation of unauthorized land occupation and unauthorized construction, which remain undeveloped and debatable. The study and analysis of criminalistic sources, practice shows that investigators face significant difficulties in identifying and investigating the unauthorized occupation of land and unauthorized construction, due to the imperfection of current legislation, lack of experience in investigation, research and guidelines [5, p. 69]. Besides, during the investigation of such crimes there is a tendency to lag behind the theoretical
development of tactical operations from the possibilities of their practical application, there are certain difficulties in their practical implementation, due to objective and subjective reasons. However, one of the important problems that need to be addressed today is the study of the role and purpose of tactical operations in improving the efficiency of crime investigation and optimization. Therefore, the issue of developing tactical operations and their role in improving the efficiency of the investigation of unauthorized occupation of land and unauthorized construction is quite justified, relevant and closely related to the optimization of the investigation of these crimes.

**Results and discussions.** The construction of any scientific concept involves the formulation of the concept of the studied category. This axiomatic statement is also characteristic of a tactical operation, the definition of which has not only theoretical but also practical significance. At the same time, considering the approaches to the formulation of the definition of "tactical operation", it should be borne in mind that today in the theory of criminalistics the concept of this category is one of the most controversial, and this can not but affect the final development and study of tactical operations [6, p. 23].

In criminalistics, it is believed that the father and founder of the concept of tactical operations is A.V. Dulov, who was the first to point out that tactics are limited to the development of tactical recommendations for certain investigative actions. In turn, such observation stimulated the development of complexes of investigative, operational-search, audit and other actions, which he proposed to call tactical operations [1, p. 23–27]. This proposal to optimize the investigation has become a novelty in the process of investigating crimes due to the comprehensive application of the system of investigative actions, operational and investigative and other measures.

It should be noted that the definition and analysis of the basic scientific approaches of criminalistic scientists contributes to a full and comprehensive understanding of the purpose of tactical operations for the practice of crime investigation, including unauthorized occupation of land and unauthorized construction. So, A.V. Dulov understands a tactical operation as a set of investigative, operational audit and other actions that are developed and carried out according to a single plan under the guidance of an investigator in order to implement such a tactical task that can not be solved by conducting individual investigative actions [7, p. 44]. In this aspect, the tactical operation is considered by M.O. Selivanov, namely as the optimal set of investigative and other actions provided by law [8, p. 92].

In turn, V.M. Shevchuk defines a tactical operation as a criminalistic complex of organizational and tactical orientation, which is a system of investigative (search), unspoken investigative (search) actions, operational-investigative, organizational-technical and other measures due to the investigative situation and related to solving a particular tactical task [2, p. 193]. V. Yu. Shepitko points out that a tactical operation is a combination of eponymous or different investigative actions of the same name, operative-search, organizational measures aimed at fulfilling an intermediate task of investigation in a given investigative situation, the scientist also defines the concept of a typical tactical operation [9, p. 179].

Joining the above scientific positions, V.A. Zhuravel emphasizes that the most established and proven criminalistic means of pre-trial investigation are considered to be systems of investigative actions and tactical operations. Moreover, they should be considered not as competing criminalistic categories, but on the contrary, as complementary means, which together form a single, most effective mechanism for obtaining information necessary for the investigation of criminal acts [10, p. 197–198, 206].
Thus, in our opinion, a tactical operation is a system of investigative (search), unspoken investigative (search) actions, operational-investigative, organizational-technical and other measures due to the investigative situation and related to solving a particular tactical task aimed at optimizing the investigation of crimes by increasing the efficiency and effectiveness of this process.

In today's conditions, the urgent need for investigative practice and modern development of criminalistics is to study the role and importance of tactical operations in improving the effectiveness of the investigation of unauthorized occupation of land and unauthorized construction. Based on the above, to solve the problem of improving the effectiveness of pre-trial investigation should be developed and implemented effective tactical tools for investigating crimes, among which a special role belongs to tactical operations, the successful implementation of which will significantly optimize the pre-trial investigation of investigated crimes [11, p. 25–32].

In this aspect, efficiency is an indicator of the desire for the end result, but not the result itself, but only a variant of correctness, accuracy directly to it (the end result). It seems that it’s correct to say that efficiency should be defined as the achievement of the maximum possible result from the implementation of scientific developments. These provisions are also relevant to the implementation of tactical operations, which solve tactical tasks and influence the investigation process, increasing its efficiency.

Considering the effectiveness, it should be borne in mind that this category is correlated with the concept of "quality of investigation". In this aspect, it’s important not only the amount of resources involved, but also the quality of their use. Because efficiency and quality are related to a positive result achieved through a lawful, fast, complete, impartial, objective investigation. In this sense, E.P. Ishchenko writes that, qualitative investigation of concrete criminal proceedings provides: 1) detailed planning, processing of advanced versions; 2) cooperation of the investigator with experts, specialists who have appropriate professional training and experience in the specialty; 3) the availability of technical and criminalistic support, adequate tactics of investigative actions [12, p. 124]. Thus, V. Yu. Shepitko and G. K. Avdeeva note that the quality and effectiveness of the fight against crime depends on innovative activities in law enforcement agencies [13, p. 12]. The introduction of innovations in the pre-trial investigation is the basis for improving the quality and efficiency of criminal investigations. In this aspect, innovations in pre-trial investigation mean new modern methods, techniques, technologies, technical means, devices, equipment, tools developed and implemented in investigative practice, the purpose of which is to optimize the investigation, improve the quality and efficiency of investigative activities, reduce errors [14, p. 40–42].

It’s obvious that the investigation of crimes is a complex, difficult and multifaceted activity, the effectiveness of which depends on the success of the fight against crime. In this regard, the effectiveness should be considered in the context of the pre-trial investigation. Thus, the effectiveness of the pre-trial investigation should be understood as the level of achievement of the purpose and objectives of the preliminary investigation stage as a result of lawful, optimal and rational organizational, procedural actions of the investigator.

Of considerable scientific and practical interest is the definition of the constituent elements that are part of the content of the effectiveness of the investigation. Given the above, we can say that the effectiveness of the investigation means: 1) the availability of sufficient resources that are involved in the investigation (personnel, technical, material, etc.); 2) algorithmization of the investigation process and optimal use of available resources; 3) proper professional training of participants in criminal proceedings (investigators, NABU detectives, SBI); 4) interaction and
cooperation with experts, specialists, expert in other fields; 5) ensuring a full, impartial, within a reasonable time and in accordance with the requirements of the legislation of the investigation; 6) use of the optimal set of actions and (or) measures; 7) the minimum amount of resources spent to obtain successful results (consequences).

In our opinion, the **effectiveness of the investigation of unauthorized occupation of land and unauthorized construction** is the ultimate desired result of purposeful, systematic activities of the subjects of pre-trial investigation (investigators, NABU detectives, SBI), which consists in collecting, examining evidence, establishing objective truth in case, solving the tasks of the investigation, due to the rational use by them of the optimal set of certain actions and (or) measures, which leads to the expected successful results (consequences) of criminal proceedings. Thus, the need to clarify the role of tactical operations in improving the effectiveness of the investigation of unauthorized occupation of land and unauthorized construction is quite obvious and beyond doubt.

Starting to study the role of tactical operations in improving the efficiency of the investigation, the opinion of V.O. Konovalova that research in the development of tactical operations should be focused on building tactical operations for the investigation of certain types of crimes, especially in the initial stages of their investigation, where tactical operations can prevent the loss of important information [15, p. 348–349]. It should be noted that, foremost, the construction of tactical operations should take place in accordance with the characteristics of the type of a particular crime and the tactical tasks that follow from it. In this aspect, tactical operations should be developed in the context of the formation of appropriate species or subspecies techniques (micromethods), that is to say they should be an integral part of them [16, p. 204–222]. Thus, the relationship between tactical operations and a certain type of crime, the individual characteristics of which affect the construction, planning of tactical operations, which is important in the investigation of unauthorized occupation of land and unauthorized construction.

Moreover, the choice of tactical operations is due to the criminalistic characteristics of this crime. So, B.V. Schur emphasizes that if a criminalistic characterization performs its practical (pragmatic) function, it is part of a separate criminalistic methodology, as it is used in investigative activities, during the pre-trial investigation, and is an appropriate tool in the investigation [17, p. 136]. In this sense, the criminalistic characteristics, being a fairly new category of criminalistics, contributes to the development of methods for investigating certain types of crimes and determines the direction of investigation of such crimes.

It should be noted that the purpose of criminalistic characterization of crimes is to optimize the process of crime investigation. In the structure of this characteristic there are the following basic structural elements: 11) the method of committing the crime; 2) the method of concealing the crime, camouflage; 3) typical material traces of the crime; 4) characteristics of the offender; 5) characteristics of the victim; 6) the circumstances of the crime (time, place, etc.). In our opinion, the criminalistic characterization of unauthorized occupation of land and unauthorized construction serves as an information base for the construction of tactical operations, which allows not only to form models for solving systemic problems, but also to provide the necessary information the entire investigation process.

Given the above, we consider it possible to note that the **role of tactical operations in the investigation of unauthorized occupation of land and unauthorized construction** is that they are: 1) a means of optimizing and improving the methodology of investigation of this crime; 2) a rational means of improving the efficiency of the investigation of the crime in question; 3) a means of improving the effectiveness of
the investigation of this crime; 4) the most rational form of use of funds by professional participants in criminal proceedings (investigators, NABU detectives, SBI); 5) activity means of solving tactical tasks of this crime; 6) informative and cognitive means of obtaining effective results in gathering evidence; 7) a means of tactical influence and change for the better in the investigative situation.

Conclusions. Thus, the study provided an opportunity to conclude that the effectiveness of the investigation of unauthorized occupation of land and unauthorized construction should be considered as a favorable result (consequence) of the professional activities of participants in criminal proceedings, which has a lasting positive effect. In addition, the role and purpose of tactical operations in the investigation of unauthorized occupation of land and unauthorized construction is that they are: a means of optimizing and improving the methodology of the investigation; purposeful means to increase the efficiency of the investigation; a means of improving the effectiveness of the investigation; the most rational form of use of funds by the subjects of pre-trial investigation; activity means of solving tactical tasks; informative and cognitive means of obtaining effective results in gathering evidence; means of tactical influence on the investigative situation.

Список використаних джерел:

[1] Дулов, А.В. (1972). О разработке тактических операций при расследовании преступлений. 50 лет советской прокуратуры и проблемы совершенствования предварительного следствия. (с. 23−27). Ленинград: Ин-т совершенствования следств. работников и МВД.
[2] Шевчук, В.М. (2013). Тaktичні операції у криміналістиці: теоретичні засади формування та практика реалізації. Харків: Вид. агенція «Апостіль».
[3] Коновалова, В.Е. (2003). Концепция криминалистической тактики: прогнозы развития. Актуальні проблеми криміналістики: матеріали міжнар. наук.-практ. конф. (с. 66−74). 2003. Харків, Україна.
[4] Шепитько, В.Ю. (2006). Криміналістична тактика: системно-структурний аналіз: монографія. Харків: Харків юридичний.
[5] Степанюк, Р.Л., Заяць, Д.Д. (2009). Особливості порушення кримінальної справи про самовільне зайняття земельної ділянки та самовільне будівництво. Вісник Харківського Національного університету внутрішніх справ, (44). 69−73.
[6] Шевчук, В.М. (2012). Наукові підходи до розуміння тактичної операції. Теорія та практика судової експертизи і криміналістики, (12). 22−33.
[7] Дулов, А.В. (1979). Тактические операции при расследовании преступлений. Минск: Изд-во БГУ.
[8] Селеванов, Н.А. (1982). Советская криминалистика: система понятий. Москва: Юридлит.
[9] Шепитько, В.Ю. (2007). Криміналістична тактика: системно-структурний аналіз: монографія. Харків: Харків юридичний.
[10] Журавель, В.А. (2009). Системи слідчих дій та тактичні операції в структурі окремої криміналістичної методики розслідування злочинів. Вісник Національної академії правових наук України, 2(57). 197−208.
[11] Зникин, В.К. (2014). Поняття ефективності і качества предварительного расследования. Вестник Томского государственного университета, 1(11). 25−32.
[12] Ищенко, Е.П. (2017). К проблеме качества предварительного расследования преступлений. Вестник университета им. О.Е. Кутафина (МПОА), (5). 120−134.
[13] Шепитько, В.Ю., Авдєєва Г.К. (2019). Проблеми застосування науково-технічних засобів та інноваційних продуктів у діяльності органів правопорядку. Теорія та практика судової експертизи і криміналістики, (20). 11−26.
[14] Шепитько, В.Ю., Журавель В.А., Авдєєва Г.К. (2001). Інновації в криміналістиці та їх впровадження в діяльність органів правопорядку. Теорія та практика судової експертизи і криміналістики, (20). 11−26.
[15] Коновалова, В.Е. (2010). Генезис криминалистической тактики. Криміналістика ХХІ століття: матеріали міжнар. наук.-практ. конф. (25-26 листопада 2010 р.), Харків, Україна. 347−350.
[16] Журавель, В.А. (2012). Криміналістичні методики: сучасні наукові концепції. Харків: вид. агенція Апостіль.
[17] Щур, Б.Б. (2010). Теоретичні основи формування та застосування криміналістичних методик. Харків: Харків юридичний.