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DEFINING CORRELATION BETWEEN TACTICAL, TECHNOLOGICAL AND ORGANIZATIONAL ASPECTS IN AN INVESTIGATIVE (SEARCH) ACTIVITY

This article is devoted to the study of the nature and structure of investigative (search) activities and defining the correlation between its tactical, technological and organizational aspects. The author researched and analyzed the works of criminalists who have been developing recommendations for organization of investigative (search) activities and have been determining their specific features and structural elements.

Relevance of the research of the structure of investigative (search) activity and defining the correlation between its aspects is stipulated by the need of improvement of tactical recommendations for conducting investigative (search) activities during the investigation of criminal proceedings. The article discusses the need to identify those aspects of investigative (search) activities: tactical, technological and organizational, describe grounds for their differentiation and discuss their relationship with each other.

Key words: criminalistic tactics, investigative (search) activities, tactics of investigative (search) activity, tactical aspect, technological aspect, organizational aspect.

The concept of criminalistic tactics has been existing since the inception of this science. Thus, Hans Gross does not directly determine criminalistic tactics, but provides for an analysis of its provisions in his fundamental work - "Guidelines for judicial investigators as a criminalistic system". This indicates that he selected and developed provisions which are traditionally included in the section of criminalistic tactics¹. Thus, he paid attention to studying features of preparation and processing examination of a witness and an accused, especially the formation of testimony, inspection of the crime scene, its fixation and conduct of a search. In 1910 Veynhart's famous work called "Criminal tactics: a guide for crime investigation" was published. The research work actually introduced the concept of "tactics" in criminalistic science².

Criminalistic tactics, like the rest of criminalistics, in general, originates from the science of criminal proceedings. During its formation tactics was seen as a part of police (criminal) technique. However, in the process of development, criminalistic tactics used and adapted to its needs developments and achievements of other sciences such as psychology, logic, ethics and others. Criminalistic tactics has always been and is still an open system that collects and integrates the latest scientific and technological findings. One of the central elements of criminalistic tactics is an investigative (search) activity which accumulates achievements and scientific developments in this section of criminalistics. Therefore, in order to analyze the content and structure of an investigative (search) activity it is necessary to determine what range of questions criminalistics studies.

As part of the Eastern European school of criminalistics, criminalistic tactics gained active development in the 60 - 80-ies of the 20th century. The views of scientists on the content and structure of criminalistic tactics are constantly changing, and some provisions which in the initial formation related to this section were removed and are now considered to be criminalistic methods. But most modern scholars agree that criminalistic tactics must include provisions concerning criminalistic versions, investigative situations, tactics, decisions, operations and combinations of investigation and planning, the principles of cooperation and the use of expertise in investigation³.

¹ Гросс, Г. (2002). *Руководство для судебных следователей как система криминалистики*. Москва: ЛексЭст.

² Вейнгарт, А. (1912). *Уголовная тактика: руководство к расследованию преступлений*. Санкт-Петербург: Вестник полиции.

³ Белкин, Р.С. (ред.). *Криминалистическая энциклопедия*. Москва: Изд-во БЕК, 104.; Аверьянова, Т.В., Белкин, Р.С., Корухов, Ю.Г., Российская, Е.Р. (2000). *Криминалистика*. Москва: НОРМА-ИНФРА, 442; Яблоков, Н.П. (ред.) (2001). *Криминалистика: учебник*. Москва: Юристъ, 189; Шепітько, В.Ю. (2007). *Криміналістична тактика (системно-структурний аналіз): монографія*. Харків: Харків

Within the researched questions it is also important to define the concept of "criminalistic tactics". Traditionally, criminalistic tactics, on the one hand, is seen as a section of criminalistic science, and on the other – as a system of scientifically based recommendations for the most rational way of organizing and conducting individual investigative (search) activities to collect evidence and reaching the goal of criminal proceedings by applying tactical techniques and their complexes.

The concept of "tactics" came into criminalistics from military science, where it is understood as a theory and practice of preparation, organization and conducting of a battle¹. Therefore, some criminalists point out that the tactics is present only where there is a real need to overcome a direct or prevent an indirect opposition to an investigation². Hence, there is a justification for understanding criminalistic tactics in a narrow and a broad sense. Viewing tactics in the narrow sense is derived from the military definition of the concept. According to this approach tactics is a system of means designed to achieve the objective of an investigation through struggle, conflict of interests and overcoming resistance. Those scientists who stick to this point, say that tactics is present only where there is a conflict, and absent in all other cases. This conflict can be expressed in an open opposition of participants of an investigation (participants of specific investigative (search) activities) when, for example, during interrogation the suspect refuses to testify or attempts to discredit the witnesses or the victim. Also, opposition may be hidden. This happens when an offender tries to confuse the investigation, send it in the wrong direction. For this purpose, he will give false or partially false testimony that distort the truth; the perpetrator will intimidate or bribe witnesses and others.

Under the second approach, the concept of "tactics" includes not only a set of tactical techniques, guidelines and other means aimed at overcoming direct or indirect opposition, but also those related to the definition of investigator's conduct, correcting the course of investigative (search) activities, actualization of information related or not related to the crime in the memory of a questioned person etc. This means that tactics in a broader sense includes not only purely tactical aspect but also other ones such as organizational, technological, psychological, procedural.

So, it should be noted that in accordance with Art. 223 of the Criminal Procedural Code of Ukraine investigative (search) activities are activities aimed at receiving (collecting) evidence or verification of evidence obtained previously in criminal proceedings³. In other words, a complex system of interrelated techniques and operations of identification, fixation, seizure, examination and assessment of evidence relevant to the events under investigation and are conducted by investigators or by an authorized person in accordance with the requirements of the criminal procedural legislation. The need for deep studying of investigative (search) activities and improvement of actions grounded on scientific and practical recommendations for their preparation and conduct stems from an extremely important result that gets investigator during investigative (search) activities. Investigative (search) activities are the only procedural means of collection of evidence-based information on which, in the course of the trial, court shall decide on the guilt or innocence of an individual.

The question of the nature and structure of investigative (search) activities, their tactics and organization always attracted the attention of criminalistic scientists. Investigative activities and their specific features were depicted in research works of such scientists as T.V. Averyanova, L.E. Arotsker, O.J. Baev, V.P. Bahin, R.S. Belkin, I.E. Bykhov, A.M. Vasiliev, V.L. Vasiliev, A.I. Vinberh, G. Gross, L.Y. Drapkin, O.M. Zinin, E.P. Ishchenko, P.P. Ishchenko, V. Komissarov, V.P. Kolmakov, S.P. Mitrichev, V.A. Obraztsov, O.R. Ratinov, M.O. Selivanov, E.A. Eysman, M.P. Yablokov, I.N. Yakimov and others. But studying of investigative (search) activities is still relevant. This is due to changes in the approach of a legislator in determining their list and regulations, specifics of their practical implementation and development of new scientific ideas and theories regarding the nature of investigative (search) activities.

юридичний, 20; Варфоломеева, Т.В., Гончаренко, В.Г., Бояров, В.І., Гончаренко, С.В., Попелюшко, В.О. (2011). *Криміналістика. Академічний курс: підручник*. Київ: Юрінком Інтер, 243; Шепітько, В.Ю. (2007). *Криміналістична тактика (системно-структурний аналіз): монографія*. Харків: Харків юридичний, 5-187.

¹ Білодід, І.К. (ред.). (1970-1980). *Словник української мови: в 11 тт. Том 10*. Київ: АН УРСР. Інститут мовознавства, Наукова думка. <<http://ukrlit.org/slovnyk/тактика>>.

² Бахин, В.П. (2002). *Криміналістика. Проблеми и мнения (1962-2002): монографія*. Киев: Тип. «Охрана труда», 111.

³ Кримінальний процесуальний кодекс України ст. 223 (2012). *Офіційний сайт Верховної Ради України*. <<http://zakon5.rada.gov.ua/laws/show/4651-17/paran1047#n1047>> (2016, May, 01).

Scientific research needs to clarify the relationship and differentiation of certain aspects of investigative (search) activities. Back in the 70s of the last century, L.E. Arotsker in his works defined the structure of investigative activity as a legal phenomenon that consists of three main elements: procedural, tactical and ethical¹.

Such scientists as V.L. Vasiliev, V.A. Obratzov, V.E. Konovalova emphasized the need to allocate psychological element within the tactical aspect (element). The psychological aspect of the investigation plays an important role in choosing the tactics and its implementation in the course of investigative (search) activities. Thus, scientists have paid special attention to establishing psychological contact between an investigator and an interrogated person, psychological impact of the implementation of an investigator on a person against whom the investigation is conducted. However, psychological contact appears in analytical activities of an investigator when it comes to not only search for evidence, but also to their evaluation (whether certain information relates to events under investigation; to what extent the information given by a questioned person is truthful; whether certain information is correct), comparison with each other and with other information obtained by an investigator (eg. regarding the identity of the victim, the terms of the crime, the identity of a criminal, etc.), nomination of the versions of a crime and its individual elements.

V.P. Bahin, A.M. Vasilyev, V.S. Kuzmichev, O.H. Filippov, V.Y. Shepitko pay attention to isolation of an organizational aspect of tactics in investigative activities, justifying its role in the investigation of interrelated provisions and pointing to the definition of complex organizational arrangements deprived of any tactical content². We can say that while distinguishing between tactical and organizational measures, the researchers highlight specific features of preparation and implementation, as well as the individual measures to achieve certain results in investigative (search) activities or whole investigation.

R.S. Belkin, E.P. Ishchenko, V.V. Tischenko indicate the existence of an objective necessity to allocate a technological aspect of investigative (search) activities alongside with a tactical one³. In addition, V.A. Obratzov proposes to allocate in the structure of investigative (search) activities a psychological, tactical and technological aspects⁴. Formation of scientific researches within the technological approach is stipulated by the tendency of integration of knowledge of different sciences in criminalistic science as an open system that actively develops and adapts achievements of natural sciences and humanities to its needs.

Referring to the etymological meaning of "technology", it should be noted that derived from the Greek "*techne*" - art and "*logos*" - word, teaching⁵, and literally means "the art of teaching." In general scientific understanding technology is a combination of knowledge, information about the sequence of individual productive operations in the process of production of something⁶. In criminalistic literature scientists have been using the term "criminalistic technology" for a long time, but still there is no single approach to its definition.

¹ Ароцкер, Л.Е. (1972). О соотношении процессуальных, тактических и этических начал в следственных действиях. *50 лет Советской прокуратуры и проблемы совершенствования предварительного следствия (Краткие тезисы докладов и научных конференций)*, 52-55.

² Бахин, В.П., Карпов, Н.С. (1998). Понятие и сущность криминалистической тактики. *Современные проблемы криминалистики: тр. Академии управления МВД России*, 9-19; Бахин, В.П. *Понятие, сущность и содержание криминалистической тактики. Лекция*. Симферополь, 19; Васильев, А.М. (1976). *Следственная тактика*. Москва: Юридическая литература, 10-11; Кузьмичов, В.С. (2000). *Криміналістичний аналіз розслідування злочинів*. Київ: НАВСУ; НВТ «Правник», 55; Филиппов, А.Г. (ред.) (2004). *Криминалистика: учеб. пособие для юрид. вузов*. Москва: Спарк, 369-405; Шепітько, В.Ю., Коновалова, В.О., Журавель, В.А., Глібоко, В.М., Дудніков, А.Л., Шевчук, В.М. (2008). *Криміналістика: підручник*. Харків: Право, 152.

³ Аверьянова, Т.В., Белкин, Р.С., Корухов, Ю.Г., Российская, Е.Р. (2000). *Криминалистика*. Москва: НОРМА-ИНФРА, 441-459, 528-646; Ищенко, Е.П., Образцов, В.А. (2007). *Криминалистика: учебное пособие*. Москва: Элит, 287-359; Тіщенко, В.В., Барцицька, А.А. (2012). Становлення технологічного підходу - новаційний напрямок розвитку криміналістики. *Актуальні проблеми держави і права: Збірник наукових праць*, 68, 560-566.

⁴ Еникеев, М.И., Образцов, В.А., Эминов, В.Е. (2011). *Следственные действия: психология, тактика, технология: учебное пособие для вузов*. Москва: Проспект, 10.

⁵ Кузнецов, С.А (ред.). (2000). *Технология. Большой толковый словарь русского языка*. Санкт-Петербург: Норинт, 1322.

⁶ Білодід, І.К. (ред.). (1970-1980). *Словник української мови: в 11 тт. Том 10*. Київ: АН УРСР. Інститут мовознавства, Наукова думка.
<http://ukrlit.org/slovnuk/slovnuk_ukrainskoi_movy_v_11_tomakh/технологія>.

A.A. Bartsytska determining the significance of criminalistic science technology and its place in the conceptual and categorical apparatus of criminalistic science, says that this category is of a generally scientific significance in criminalistics and serves as a basis for the development of the technological approach within each section of criminalistics¹. In our opinion, the definition proposed by V.V. Tishchenko and A.A. Bartsytska is the most apt one. They view technology as a scientifically based system of practices and procedures, methods and means of implementation aimed at optimizing investigation by gradual and consistent resolution of its tactical and strategic objectives².

We believe that separation of tactical and technological aspects should be carried out by the intellectual and psychological (willful) criterion. Tactical aspect of investigative (search) activities lies in assessment of an investigative situation and choosing the most appropriate direction of behavior, selection of optimal techniques and methods for conducting investigative (search) activities. As for the technological aspect, the structure of an investigative (search) activity is a gradual and sequential algorithm for solving specific (tactical) tasks under conditions of use of certain techniques and methods and compliance with the requirements. It should be noted that technological programs of investigative (search) activities are related to dynamics of informationally-cognitive process of an investigation which gives an opportunity to adapt and apply the mentioned programs to typical investigative situations. In a nutshell, an investigator has an opportunity to choose a set of tactical and criminalistic tools, techniques and methods of investigation within the technological program of investigative (search) activities. The most efficient and effective thing is implementation of typical technological model of investigative (search) activity with a situational approach when a situation has a certain importance for an investigation at the time of the investigation, a person of an investigator (his character and professional skills, attitude to events under investigation), characteristic of other participants of investigative (search) activities (their procedural status - victim, witness, suspect, personal characteristics and attitudes to the events under investigation) and specificity of the information, finding of which is targeted with investigative (search) activity.

It is important to note, that distinction of tactical and technological aspects from an organizational one seems to be very difficult. The research of the question of organization has been attracting scientists since the foundation of criminalistics as a science. Over time, the research of specific issues of the investigators actions, the organization of specific investigative (search) activities, tactical operations, tactical combinations and all investigations in general led to the formation of a separate criminalistic theory devoted to general principles of activities aimed at collection, research, evaluation and use of evidence in the investigation of crimes. The issue of organization as part of the investigation touches a wide range of aspects of an investigation. Organizational activities may be related both to an organization of an investigator's work in an investigation of one or more criminal proceedings (scheduling of investigator's working time throughout the day; organization of interaction between an investigator and individual units of law enforcement and other state bodies, mass media, civil society) and with a particular investigative (search) activity or tactical operations (here we are talking about activities that could be aimed at providing necessary for the investigation complex technical and criminalistic means to attract necessary participants of investigative (search) activities to ensure procedural documents, required by the Criminal Procedural Code of Ukraine to carry out certain investigative (search) activities).

But still there is no a consensus among scientists about the definition of important organizational measures to characterize the investigative (search) activities. Some scientists stress the need to identify the organizationally-tactical aspect of the investigative (search) activities by providing organizational aspect with tactical principles; others propose to separate tactical and organizational principles. In our opinion, it is necessary to agree with the latter approach. Tactical aspect of the investigation (search) activity is based on a broad set of guidelines and principles based on the laws of logic, ethics and morality, psychological principles of communication and human activity, legislation. Thus, the laws of logic are the one of the theoretical sources of development and formation of tactics, but also affect the order of their application. Achievements of psychology within conducting investigative (search) activities are realized by taking into an account and evaluating responses, actions and opinions of its participants on the basis of which an investigator determines the direction of an action. The provisions of criminal procedural legislation define

¹ Барцицька, А.А. (2011). Категорія «криміналістична технологія» в понятійному апараті криміналістики. *Митна справа: Науково-аналіт. журн. з питань митної справи та зовнішньоекономічної діяльності*, 5(77), 173-177.

² Тіщенко, В.В., Барцицька, А.А. (2012). *Теоретичні засади формування технологічного підходу в криміналістиці*: монографія. Одеса: Фенікс, 40.

the boundaries of permissibility of the use of tactical techniques and methods. However, an organizational aspect is based on planning methods which are, in their turn, are based on the laws of logic; the basis for the organization of a certain investigative (search) activity is its legislative consolidation in Criminal Procedural Code of Ukraine and defining requirements for its implementation that must be taken into account in the organization of investigative (search) activities, and creating conditions necessary for its implementation. Tactical method that most closely reflects the tactical aspect of the investigation, is the best course of action, while an organizational aspect of the investigation is designed to ensure conditions for optimal and appropriate conducting of an investigative (search) activity. So, we see that tactical and organizational aspects are under a common ground, but it does not mean that they merge in its nature and purpose. This indicates the existence of a bilateral relationship of these structural elements of investigative (search) activities. Their cooperation provide for organization of a proper investigative (search) activity.

If we are talking about the separation of technological and organizational aspects, it should be noted that the technological aspect gets its practical implementation in building technological models of investigative (search) activities, setting intermediate (tactical) objectives and determining an algorithm for an investigator to address them. On the other hand, organizational aspect gets reflected in the creation of appropriate conditions of investigative (search) activity by proposing an action plan, ensuring presence of all its participants, providing for the choice of time, place and creating appropriate conditions for its implementation and preparation of technical and criminalistic tools. However, an organizational aspect of an investigative (search) activity is associated with the activities of each individual investigator and practice of investigation, detection of traces and circumstances relevant to the investigation. The relationship of technological and organizational aspects is manifested in the form of organizational support of technological bases of investigative (search) activities during its preparation and implementation.

Thus, the system of rules and recommendations developed in criminalistic tactics as a section of criminalistic science contains tactical, technological and organizational aspects of the investigative (search) activities. It should be emphasized that their selection and analysis aimed at further improving scientific advice on the preparation and conduct of the investigative (search) activities by synthesizing researches. The complex combination of programs and algorithms of investigative (search) activities (as the realization of technological aspect) with organizational measures as well as their tactical support provides a real opportunity to increase the effectiveness of specific investigative (search) actions and investigations in general. Typical technological model of a separate investigative (search) activity along with technological regulations should contain both organizational and tactical provisions, so that the criminalistics would be able to provide an investigator with a piece of a qualitative legal advice on the use of search tools and collecting evidence.

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