UDC 343.983.2:343.352
DOI: 10.56215/0122273.19

Operational and technical measures in counteracting bribery-related corruption offences

Mykhailo L. Hribov*

Full Doctor in Law, Professor. ORCID: https://orcid.org/0000-0003-2437-5598.
National Academy of Internal Affairs, 03035, 1 Solomianska Sq., Kyiv, Ukraine

■ **Abstract**. Legislators and developers of by-laws and regulations, theorists and practitioners consider anti-corruption as one of the priorities of Ukraine's domestic policy. However, the work of law enforcement agencies in detecting and investigating corruption offences is not sufficiently productive. But it is in the legal regulation of operational and technical measures and covert investigative actions that several problems have accumulated, which determines the relevance of this study. The purpose of the work is to outline the range of problems of legal regulation and the practical application of operational and technical measures and relevant covert investigative actions in combating corruption offences related to bribery. The methodological tools are chosen according to the chosen purpose and considering the object and subject of the study. The study is based on the general dialectical method of cognition, which is used to explore social and legal phenomena and processes, and to establish their connections with the work of operational and investigative units of law enforcement agencies, prosecutors and courts. In addition, general scientific and specific methods of legal science were used, including: logical-legal (dogmatic); system-structural; comparative legal and comparative; and sociological. It is substantiated that a necessary condition for increasing the efficiency of the application of operational and technical measures and relevant covert investigative actions in combating corruption offences is the specification and detailing of legislative provisions that establish the content and procedure for conducting some activities. The law should define all operational and technical measures (and relevant covert investigative (search) actions), clearly distinguishing between audio, and video control of: a person; a publicly inaccessible place; a publicly accessible place, and visual surveillance of a publicly accessible place using photography, video recording and special technical means for surveillance. The practical value of the work is conditioned upon the prospects of using the results obtained to improve the legal regulation of operational and investigative activities and criminal proceedings

■ **Keywords**: operational and investigative measures; covert; investigative actions; corruption; bribe; illegal benefit; legal regulation; legality

■ Introduction

The level of corruption, according to the research results of the international anti-corruption organisation Transparency International, remains consistently high in many countries of the world (for example, Azerbaijan, Algeria, Iraq, Iran, Mexico, Nigeria, Pakistan, Uzbekistan) [1]. Thus, one of the priorities of the domestic policy of these countries should be prevention and counteraction to corruption, in particular its most widespread form – bribery (hereinafter the terms “bribery” and “obtaining illegal benefits by an official” will be used synonymously). In this regard, Ukraine is no exception.

For these reasons, the efforts of theorists and practitioners are devoted to overcoming corruption. Under international and state programs and grants, scientific research is conducted to identify the determinants of corruption and improve anti-corruption activities. Therewith, these problems are raised both at the level of specific areas of public life (public administration, education, medicine, construction, foreign direct investment) in individual countries (Brazil, India, China, Congo, Nigeria, Uganda, etc.) [2; 3] and in the global perspective [4; 5].

Admittedly, such studies are conducted by Ukrainian specialists. Among other things, they pursue the purpose of using the international experience and achievements of scientists in Ukraine [6; 7].

■ **Suggested Citation:**
Hribov, M.L. (2022). Operational and technical measures in counteracting bribery-related corruption offences. *Scientific Journal of the National Academy of Internal Affairs,* 27(3), 19-31. doi: 10.56215/0122273.19.

■ *Corresponding author

■ Received: 31.07.2022; Revised: 13.09.2022; Accepted: 30.09.2022

Therewith, the attention of Ukrainian scientists and their colleagues from other countries is mostly devoted to general criminological measures to counter corruption. Therewith, there is a lack of attention to special criminological measures that are secretly used by law enforcement agencies.

Among such measures, operational and technical ones occupy an important place. Nowadays, counteraction to crime is impossible without using modern technical means (reconnaissance computer programs; means of removing information from transport telecommunication networks; means of covert visual and auditory control of publicly inaccessible places; means of covert entry into the premises; means of locating radio electronic means). However, the analysis of practice demonstrates that the legal regulation of operational and technical measures (OTM) is far from perfect. It has a very adverse impact on the efficiency of combating corruption offences related to bribery and determines the relevance of this study.

The purpose of the research is to outline the range of problems of legal regulation and practical application of OTM in combating corruption offences connected with bribery – with further identification of ways to solve these problems.

The achievement of this purpose necessitated the implementation of the following tasks:

– to cover the meaning of the concept of "operational and technical measures";

– to define the essence of specific OTM and identify problems that arise during their conduct in the framework of combating corruption-related bribery offences;

– to propose legal measures to eliminate these problems.

■ Literature review

In recent years, the vast majority of studies on combating corruption crimes in Ukraine are criminological in their content, such as the works of V. Hura [8], A. Dobroskok [9], M. Kikalishvili [10], O. Lehka [11], V. Moiseienko [12], I. Tomchuk [13] and many others. In addition, scientists from other countries prefer to explore the criminological component of the fight against corruption. Recently, the research results have been published on specific issues of combating corruption in Bangladesh [14], Brazil [15], Iran [16], China [17-19], Colombia [20], Nigeria [21; 22] etc. The same trend is observed in international studies on combating corruption in various spheres of social life, in particular, in the banking sector [23; 24], in the market economy [25; 26], in public administration [27], in sports [28], etc.

In addition, criminal law issues of fighting corruption are being actively explored in Ukraine. The works of A. Vozniuk [29], V. Kabaiev [30] are devoted to these aspects. V. Kartavtsev, I. Tomchuk & S. Prytula [31], I. Oheruk [32], I. Chuhunikov [33] and many others.

During this period, there were significantly fewer publications of research results on operational and investigative, forensic and criminal procedural problems of combating bribery-related offences. Such works include the work of I. Sukhachova [34], who covers the role of operational and investigative activities in detecting and investigating the receipt of illegal benefits by officials; R. Stepaniuk, V. Kikinchuk & M. Shcherbakovskyi [35], who explored the problems of proving corruption; O. Tarkan [36], who determined the specifics of investigative actions within the pre-trial investigation of bribery by police officers; V. Shevchuk [37], who explored the identification of signs of corruption criminal offences as a structural element of forensic investigation methodology. In addition, there is a lack of research on forensic and criminal procedural problems of combating bribery-related offences, which are represented by single works [38].

Even narrower is the range of studies that address using modern technologies and equipment in the fight against corruption. Such studies are mainly designed to explore the efficiency of open use of information and telecommunication technologies in preventing and detecting corruption [39; 40]. The issue of legal regulation of the covert use of technology in the operative and investigative and criminal procedural counteraction to corruption offences related to bribery has not yet been comprehensively explored.

Therewith, the scientific foundation for such research has already been established by Ukrainian (S. Albul [41], A. Cherniak [42], I. Kharaberiush [43], S. Kniaziev [44] etc.) and foreign (C. Atkinson [45], E. Kruisbergen [46], B. Loftus [47], R. Schlembach [48]) scientists in the field of covert methods of obtaining information. In addition, nowadays, Ukrainian scientists are exploring the issues of investigating criminal offences using the latest digital technologies, integrating the latest achievements of science and technology into forensic science to implement a strategy for solving crimes in the digital era [49].

■ Materials and methods

Considering the subject and purpose of the study, its object and subject, the corresponding methodological tools were chosen. The main component of it was the general scientific dialectical method of cognition, which was used in the study of the activities of operational and investigative units of law enforcement agencies, prosecutors and courts in the field of counteracting corruption in their interconnection. In addition, the author used general scientific and specific methods of legal science, including: *logical and legal (dogmatic)* – to improve the terminology, develop proposals for amendments and additions to legislation, *systemic and structura*l – to determine the

content of the studied categories and legal phenomena, in particular the development of the terminology, systematisation of theoretical achievements on the subject of this research, comprehensive analysis of the provisions of legal acts and the practice of their application; *comparative legal and comparative* – for comparative analysis of Ukrainian legislation and regulations that constitute the legal foundation for using covert methods of work of law enforcement authorities with using operational and technical means.

These methods were used at all stages of the study, which include: defining the scientific problem, setting the purpose and objectives of the study; detailing the content of the category "operational and technical measures"; determining the legal and actual content of each OTM, which was embodied in the legislation of Ukraine; analysis of the practice of using individual OTM in combating corruption offences related to bribery to identify problems of legal regulation; development of ways to solve these problems.

The theoretical foundation of the study was based on the results of recent fundamental research of Ukrainian and foreign scientists in the following areas: combating corruption offences; conducting covert investigative activities (CI(S)A) and operative-search activities (OSA) by law enforcement agencies; using operational techniques for the detection and investigation of offences.

The empirical base of the study is the official statistical data, and materials of criminal proceedings on corruption crimes related to bribery (a total of 89 criminal cases were explored, including under individual articles of the Criminal Code (CC) of Ukraine: Art. 354 – five; 368 – forty-seven; 368-3 – seven; 368-4 – seven; 369 – three; 369-2 – twelve; 369-3 – eight) [50]. The author conducted a sample of these proceedings by searching by the category of case (criminal), instance (cassation) and keywords in the Unified Register of Court Decisions – with further analysis of the content of the relevant judgments and resolutions for relevance to the subject of the research [51; 52]. In parallel, the author surveyed 20 operatives and 26 investigators of the National Police, 14 detectives of the State Bureau of Investigation of Ukraine (SBI) and the National Anti-Corruption Bureau (NAB) of Ukraine; 17 prosecutors; 9 judges and 23 lawyers. This author's survey (research) was intended to confirm, correct or refute the conclusions drawn from the results of the study of criminal proceedings. All surveys were conducted with the consent of the respondents, and the information obtained is used only for scientific purposes.

Results and Discussion

In the process of documenting corruption offences related to bribery, investigators, detectives and officers of operational units actively use the term "operational and technical measures". It is used to refer to both OSA and technologically based CI(S)A. Therewith, some actions and measures are designated by numbers assigned to them by closed departmental regulations.

Therewith, at present, the legislator does not use the phrase "OTM" either in the Law of Ukraine "On Operational and Investigative Activity" [53] or in the Criminal Procedure Code (CPC) of Ukraine. It can be found only in regulations. In particular, it is contained in the Decree of the President of Ukraine of November 7, 2005, No. 1556/2005 "On the Observance of Human Rights During Operational and Technical Measures" [52]. It is widely used by the developers of departmental regulations of law enforcement agencies.

However, the definitions of OTM provided in such regulations often contradict the logic and practice of their application.

Exploring this issue, the author concluded that only those operational and investigative measures that cannot be performed without using operational and technical means should be considered operational and technical. It should become the main defining feature of OTM, which should be considered in the development of its regulatory definition.

An important issue is the correlation of the content of the OTM with the relevant covert investigative (search) actions.

Each provision of Art. 8 of the Law of Ukraine "On Operational and Investigative Activity" [53], which provides for the right of operational units to conduct a particular OTM, refers to the provision of the CPC of Ukraine which provides for the relevant covert investigative (detective) action. Consequently, when considering the issue of conducting OTM to document bribery-related corruption offences, the author will simultaneously consider the conduct of the relevant CI(S)A. And vice versa: when studying a specific CI(S)A based on using technical means, the author necessarily explores the operational and technical measures that correlate with it.

Based on the above, it can be argued that the OTM include: audio, and video control of a person – Art. 260 of the CPC of Ukraine [54]; removal of information from transport telecommunication networks (TTM) – Art. 263 of the CPC of Ukraine [54]; withdrawal and inspection of correspondence – Art. 262 of the CPC of Ukraine [54]; inspection of publicly inaccessible places, housing or other property of a person – Art. 267 of the CPC of Ukraine [54]; establishing the location of a radio electronic device – Art. 268 of the CPC of Ukraine [54]; removal of information from electronic information systems (EIS) – Art. 264 of the CPC of Ukraine [54]; audio and video control of a place – Art. 270 of the CPC of Ukraine [54]. Consider each of these measures separately in terms of their application in the process of documenting corruption offences related to bribery.

Analysing Art. 260 of the CPC of Ukraine [54], it is concluded that the legislator has defined its provisions in such a way that the prosecution is granted the right (in case of obtaining the permission of the investigating judge) to monitor and record the behaviour of a particular person through technical means of audio and (or) video control, regardless of where the person is (private house, apartment, office, car, yard, street, park, etc.) and where and how the person moves. Therewith, the investigating judge's permission to conduct audio, and video control of a person, and to conduct other CI(S)A, can be granted for a period of up to two months. Admittedly, in practice, it is quite difficult to organise continuous audio and video surveillance of a person even for a short period if the person changes location.

The analysis of the practical application of the provisions of Art. 260 of the CPC of Ukraine [54] within the framework of documenting corruption offences related to bribery demonstrates the coexistence of two approaches to the organisation of audio and video control of a person, which provide it with different content.

The first approach is to covertly install audio and video surveillance of a person in a specific room or vehicle, where, according to the investigator or operational unit, the person is supposed to be. It guarantees the achievement of the purpose of the CI(S)A only if this person is in a controlled room, and their actions, movements, words, and sounds will be relevant to a specific criminal proceeding (operational investigation case). With this approach, the control is practically performed both regarding the individual and other persons who are in the room (vehicle). In addition, the premises may be monitored even in the absence of the person in respect of whom the permission for conducting the CI(S)A was obtained, as provided for in Article 260 of the CPC of Ukraine [54]. It converts it into the control of a publicly inaccessible place.

The implementation of this approach to the organisation, and, accordingly, to the content of audio and video control of a person is frequently impossible without a preliminary inspection of publicly inaccessible places, housing or other possessions of a person (Article 267 of the CPC of Ukraine [54]). To install devices of audio and video control of a person in a particular room and vehicle, as a rule, it is necessary to enter it first.

Analysing the legislative regulation of covert inspection of publicly accessible places, housing or other property of a person, D.M. Tolpyho [55] indicates it is imperfect due to the lack of regulation of the tactics of installation of audio, and video control devices on the relevant objects and their subsequent dismantling. According to the researcher, this results in the lack of a precise procedure for conducting this CI(S)A by authorised entities [55]. The statement about the imperfection of the legislative regulation of the studied CI(S)A can be agreed with. But it is not connected with the regulation of its tactics. Thus, the tactics of CI(S)A and OSA should be defined in methodological recommendations and only in some cases should be regulated at the level of regulations with the appropriate classification. The organisation of specific CI(S)A and OSA can be subject to legal regulation only at the level of departmental orders, instructions, guidelines, etc. It, among other things, concerns the inspection of publicly inaccessible places, housing or other property of a person.

The organisation of the CI(S)A, provided for in Article 267 of the CPC [54] is complicated conducting. It is simplified when a relationship of covert cooperation is established with a person who has access to the necessary premises and the ability to independently conduct an inspection there (or conduct it systematically at the right time).

The second approach of audio and video control of a person does not require inspection of publicly inaccessible places, housing or other property of a person.

This approach consists in involving the applicant in conducting audio and video control of the person, who is provided with appropriate technical means placed in their clothes, shoes, accessories, etc. Such an applicant, involved in covert cooperation, can mostly document the actions of the controlled person regardless of their location (without connection to specific premises or vehicle). With these means, an undercover officer can arrive at a place that is spontaneously and unexpectedly determined by the object of operational development. This approach to audio and video control of a person is used during the pre-trial investigation of corruption offences related to bribery. During a special investigative experiment, it is much easier to apply it than to audio, and video control of a person with the preliminary installation of technical devices for control and fixation in a specific office or vehicle. In addition, the provision of appropriate technical equipment to the applicant allows for documenting the actions of the developer even if the latter unexpectedly moves the meeting place.

This approach is simple and effective in application. There is no necessity to develop and implement operations on entering the premises to install control devices there (and their subsequent removal) with the involvement of a wide range of specialists, etc.

However, the high efficiency and simplicity of such an approach are combined with significant risks of its use not to protect legally protected interests, but to establish artificial indicators with unlawful restriction of the rights of the persons under development, suspects and other persons, such as in criminal cases No. 164/104/18 [56]; No. 166/1199/18 [57]; No. 332/2723/15-k [58]. In these cases, there was actual control over the commission of a crime within

the framework of the execution of the decision of the investigating judge on the permission to conduct audio-video control of a person with the involvement of covert officers.

Using confidential employees in the process of conducting covert measures, rightly emphasises M.A. Pohoretskyi, should be based on ensuring guarantees of legality, among which the European Court of Human Rights (ECHR) distinguishes two groups. The first includes guarantees that ensure legality during the control over the commission of a crime. The second – procedural guarantees at the stage of criminal proceedings in court [59]. Admittedly, this rule should be applied to the process of detection and investigation of corruption offences related to bribery.

Close in content to audio and video control of a person is the CI(S)A provided for in Article 270 of the CPC of Ukraine [54] – audio and video control of a place. This CI(S)A and the corresponding OTM are used to record criminal actions that are to occur in a specific place that has signs of public access.

The establishment of technical means of control in such places frequently causes difficulties. Therefore, as part of the control over the commission of an offence, based on the provisions of the mentioned article, audio and video recording devices are installed on the personal belongings of the person who is to provide an illegal benefit (IB), which is audio and video control of the person. Theoretically, this approach should result in the recognition by the court of the evidence obtained in such a way as inadmissible, since there is a substitution of one CI(S)A by another.

However, numerous court decisions (rulings of investigating judges, verdicts and resolutions) generally use the term "audio, video control of the place (for the person)". In the practice of the Supreme Court, the CI(S)A with such a name is found in 17 decisions (cases No. 212/5246/20; 655/570/17; 741/458/17; 739/361/19; 725/1477/18; 263/10353/16-k etc.) [60]. Therewith, in many cases, these evidences are considered inadmissible not for the reason of the substitution of the content of one CI(S)A by another, but on such grounds as failure to disclose their materials to the defence under Article 290 of the CPC of Ukraine [54], conducting CI(S)A outside the scope of the investigating judge's ruling, etc.

Thus, the decision of the Supreme Court of December 12, 2019, in case No. 681/1024/16-k states: "Therewith, the arguments of the defenders of the convicted P.P. Posadovets & K.K. Kerivnyk on the inadmissibility of evidence – protocol on results of tacit investigation activities on P.P. Posadovets, namely protocol on results of audio, video control of place (behind the person) No. 6351 of June 04, 2014, and audio record of results of audio, video control of place (behind the person) are fair [60].

Thus, it follows from the materials of the criminal proceedings that they indeed do not contain information about obtaining the permission of the investigating judge to conduct the above-mentioned CI(S)A and their declassification.

Considering this, this protocol cannot be considered admissible evidence, and references to it should be excluded from the appealed court decisions.

The practice of accepting the protocol of "audio, video control of the place (by person)" as evidence is considered unacceptable. The CPC of Ukraine does not provide for such an CI(S)A. Analysis of the content of the provisions of Articles 258, 260, 270 of the CPC of Ukraine [54] allows asserting that the main criterion for distinguishing between audio, and video control of a place and audio, and video control of a person should be interference with private communication. Such interference can occur during the CI(S)A provided for in Article 260 of the CPC of Ukraine [54]. When conducting the CI(S)A provided for in Art. 270 [54] – no. Indeed, audio and video control of the place is not included in the list of CI(S)A, which is an interference with private communication.

Thus, in proceedings on corruption offences related to bribery of the CI(S)A, the bribery associated with the receipt and use by the applicant (involved in confidential cooperation) of audio and video surveillance equipment should be determined by Art. 260 of the CPC of Ukraine [54]. Indeed, the fact that communication occurs in a publicly accessible place does not deprive it of privacy.

The analysis of the practice of applying the provisions of Art. 270 of the CPC of Ukraine [54] to document corruption offences related to bribery demonstrates that investigators and operatives often make mistakes of technical, tactical and organisational nature, which subsequently results in the inadmissibility of the evidence obtained.

Thus, in the ruling of 02/17/2021 in case No. 263/10353/16-k (criminal proceedings under Part 3 of Article 368 of the CC of Ukraine), the Supreme Court notes that from the video recording of the CI(S)A audio, video control of the place (by person) to record the meeting of P.P. First & D.D. Second, on 12/17/2015, it is impossible to visually identify the persons whose conversation was recorded, due to the lack of images. Therewith, no phonoscopic examination of the voices of the persons between whom the conversation occurred was conducted. In the courts of previous instances, D.D. the Second categorically denied the fact of meeting with P.P. the First and receiving money from him in the vehicle. The prosecution did not provide any other evidence to confirm the fact of the transfer of funds from IB to D.D. Second, except for the testimony of P.P. First" [61]. In this case, the court does not consider the fact that there was an interference with private communication,

which cannot be performed within the framework of the CI(S)A provided for in Article 270 of the CPC [54].

Therewith, the above decision allows concluding that the phonoscopic examination is an important source of evidence in criminal proceedings concerning the acceptance of an offer, promise or receipt of IB by an official. It concerns both audio control of a place and a person (which can be performed without video control), and, first of all, the removal of information from transport telecommunication networks (TTM) (Article 263 of the CPC of Ukraine [54]). The actual audio recording of the conversation, where it is recorded how the person accepts the offer (promise) to provide IB and the results of the phonoscopic examination (in case of identification of the voice of this person) together can be evidence of the acceptance of the offer, the promise of IB in the actions of this person.

Therewith, the analysis of judicial practice allows concluding that criminal liability is brought precisely for obtaining IB or for actions specifically designed to obtain it, but for some reason not completed.

Within the framework of criminal proceedings on corruption offences related to bribery of the CI(S)A, the removal of information from TTM is mostly used only in conjunction with other investigative actions and serves to obtain both evidentiary information and information used for operational and tactical purposes.

The practical significance of extracting information from the TTM is the ability to access the content of negotiations on the criminal intentions of the controlled person, including the place, time and method of transferring the subject of the IB, the intermediaries who will be involved in this process, the caches, hiding places used, specific means of ensuring the conspiracy of criminal activity. Finally, through this CI(S)A, the fact of extortion of a bribe with the statement of specific requirements, and threats to the potential provider of IB can be recorded [62, p. 64].

In terms of this CI(S)A, it is important to identify and precisely record the investigator the features that allow unique identification of the desired consumer of telecommunication services, namely their subscriber number [62, p. 64].

Similar in nature to the removal of information from the TTM is the removal of information from electronic information systems (EIS) without the knowledge of its owner, possessor or holder (Part 1 of Article 264 of the CPC of Ukraine [54]).

Analysis of the definitions and practice of application of the provision of Part 1 of Art. 264 of the CPC of Ukraine [54] by operational units in the course of documenting the acceptance of an offer, promise or receipt of a Bribe by an official demonstrates that there are specific features of its application before and after the control of the crime (tactical operation to expose a bribe-taker).

Before and during such control (operation), this CI(S)A is conducted exclusively confidentially, which fully complies with the requirement of covertness. In this format, this measure can be divided into the following stages: gaining access to the necessary information system (or part of it); searching and identifying the necessary information by known features; copying information; destroying traces that can indicate the removal of information. All these stages (except the first) are exclusively software and technical operations.

The author is convinced that gaining access to the required information system (or part thereof) can be performed both by using intelligence computer programs and by using the possibility of physical access to the required information system or part of it. In the latter case, there can be a situational (one-time) establishment of confidential cooperation with a person who has the appropriate access and can independently remove the necessary information from a specific device.

Currently, according to the author, there are intelligence computer programs that allow both remote and covertly obtaining data stored on a particular mobile device (information system), and obtaining the possibility of covertly capturing information from microphones and video cameras of this device in real-time. When using such programs, there is a problem distinguishing between CI(S)A provided for in Part 1 of Article 264 of the CPC [54] and audio-video control of a person. Consider that the removal of information from the microphones and video cameras of EIS in real-time should be regulated as a separate OTM and the corresponding CI(S)A, which is an interference with private communication.

In addition, notably, nowadays the practice of extracting information from the EIS ex post facto – after control over the commission of a crime, detention of a person, inspection and search – has become widespread. Information is taken from mobile phones, tablets, and computers confiscated during the search and subsequently arrested.

In content, this brings the CI(S)A provided for in part 1 of Article 264 [54] closer to an examination, since it is generally not a secret for the owner of the confiscated property that their computer system will be examined by specialists for information relevant to criminal proceedings. The author's practical experience demonstrates that investigators and prosecutors frequently openly inform suspects and their defence lawyers that they will be removing information from confiscated equipment based on the decision of the investigating judge. It is confirmed by the results of a survey conducted by the author, during which 100% of prosecutors, investigators and detectives testified that they usually do not conceal from suspects and their defence counsel the fact that the CI(S)A provided for in Part 1 of Article 264 is used to explore confiscated computers and smartphones.

All respondents indicated that they sometimes use the verbal notification as a tactical and psychological technique to get a suspect to confess to a crime. All the lawyers interviewed by the author stated that such techniques are used by the prosecution. In addition, all procedures related to the removal of information from the EIS are formally classified according to the Law of Ukraine "On State Secrets" [63].

This approach has replaced using the procedure of temporary access to things and documents to extract information from confiscated information systems. It, in the author's opinion, was a completely logical step, since temporary access to things and documents: firstly, is a measure to ensure criminal proceedings, not an investigative (search) action (it should provide access to the medium, not obtain information); secondly, it cannot replace interference with private communication, which inevitably occurs when exploring the content of the suspect's correspondence with other persons conducted through information systems.

The author's practical experience demonstrates that in rare cases, the transfer of the subject matter of the IB is performed through postal institutions. It is mostly due to an attempt to ensure the concealment of criminal actions and avoidance of liability in case of red-handedness. In such cases, the inspection and confiscation of correspondence should be an integral part of tactical operations to expose bribe-takers. Thus, the CI(S)A provided for in Article 262 of the CPC of Ukraine [54] are an important component of tactical operations to expose bribe-takers if the subject matter of the IB is sent by mail.

Undoubtedly, during the covert investigative (search) action provided for in Article 262 of the CPC of Ukraine [54], it can be necessary to: open letters, packages, and boxes – with their subsequent return to their original form; to determine the filling (content) of letters, packages, boxes without opening them – using special equipment; identify some items by their specific features, etc. Such actions may require the special knowledge, skills and abilities of a specialist. In addition, the relevant operational and technical units should have such specialists on their staff.

Establishing the location of a radio electronic device as an CI(S)A and OTM to detect and investigate corruption-related bribery offences is usually used for operational and tactical purposes. The results of this measure are not used in evidence on their own but only in conjunction with other evidence.

Conclusions

The lack of unambiguity in the legal provisions establishing the content and procedure for conducting the OTM and related CI(S)A results in problems with documenting bribery-related corruption offences. These problems are manifested in the following actions of operatives, detectives, investigators and prosecutors:

– actual control over the commission of a crime within the framework of the investigating judge's decision to allow audio and video monitoring of a person;

– using audio and video monitoring of a person by the decision of the investigating judge to allow audio and video monitoring of the place;

– audio and video surveillance of the place without proper grounds – by order of the investigator, prosecutor to conduct visual surveillance of the place using photography, video recording and special technical means for monitoring;

– conducting OTM and relevant CI(S)A not provided for by the CPC of Ukraine and the Law of Ukraine "On Operational and Investigative Activities" (audio, video monitoring of the place (by person)).

– using during the control of a corruption offence related to the bribery of technical devices for audio and video monitoring of a place and person without the decision of the investigating judge to conduct the relevant CI(S)A.

Such actions are a violation of the rights of the suspect or accused and frequently result in the inadmissibility of the evidence obtained.

In the author's opinion, the improvement of using OTM and relevant CI(S)A in counteracting crime should consist in specifying and detailing the provisions of the legislation that establish the content and procedure for conducting individual activities. In particular, at the legislative level, it is necessary to provide definitions of all OTM and relevant CI(S)A, clearly distinguishing between audio and video monitoring of: a person; a publicly inaccessible place; a publicly accessible place, and visual surveillance of a publicly accessible place using photography, video recording and special technical devices for surveillance.

In addition, the legislator should consider the necessity of introducing to the list of operational and technical measures the latest methods of obtaining information arising from modern scientific and technological advances, with the definition of the content and procedure for conducting such measures.

References

[1] Site "Index of perception of corruption". (2021). Retrieved from https://cpi.ti-ukraine.org/.

[2] Brody, R.G., Gupta, G., Ekofo, A.N., & Ogunade, K.M. (2020). The need for anti-corruption policies in developing countries. *Journal of Financial Crime*, 28(1), 131-141. doi: 10.1108/JFC-06-2020-0099.

[3] Dung, Q., Sy, T., Nga, K., Lan, M., Tung, T., & Trung, G.Ch.F. (Reviewingeditor) (2021). Two decades of corruption researchin ASEAN: A bibliometrics analysis in Scopus database (2000-2020). *Cogent Social Sciences*, 7(1), 1-27. doi: 10.1080/23311886.2021.2006520.

[4] Kuipers, S. (2022). Rethinkinganti-corruption efforts in international development. *Journal of Financial Crime*, 29(4), 1370-1381. doi: 10.1108/JFC-08-2021-0176.
[5] Marquette, H., & Peiffer, C. (2018). Grappling with the "realpolitics" of system iccorruption: Theoretical debates versus "real-world" functions. *Governance*, 31(3), 499-514. doi: 10.1111/gove.12311.
[6] Melnyk, D.S., Parfylo, O.A., Butenko, O.V., Tykhonova, O.V., & Zarosylo, V.O. (2022). Practice of the member states of the European Union in the field ofanti-corruption regulation. *Journal of Financial Crime*, 29(3), 853-863. doi: 10.1108/JFC-03-2021-0050.
[7] Orlovskyi, R., Shapoval, R., & Demenko, O. (2018). Possibilities of adapting the typologies of the international standards for establishing criminal liability for corruption-related crimesin Ukraine. *Journal of Eastern European and Central Asian Research (JEECAR)*, 5(2), 108-112. doi: 10.15549/jeecar.v5i2.230.
[8] Hura, V. (2022). Corruption: Concepts and types, causes. *Economic Analysis*, 32(2), 73-81. doi: 10.35774/econa2022.02.073.
[9] Dobroskok, A. (2021). Criminological determinants of intellectual property crimes. *Scientific Bulletin of the National Academy of Internal Affairs*, 118(1), 76-81. doi: 10.33270/01211181.76.
[10] Kikalishvili, M.V. (2019). Current trends in corruption criminality in Ukraine. *Subcarpathian Law Herald*, 2(3(28)), 63-67. doi: 10.32837/pyuv.v2i3(28).359.
[11] Lehka, O.V. (2020). The main determinants that determine corruption of fenses in Ukraine. *Law and society*, 3, 44-49. doi: 10.32842/2078-3736/2020.3.6.
[12] Moiseienko, V. (2020). Determinants of committing criminal offense sinsphere of economic activity. *Juridical Science*, 2(104), 50-60. doi: 10.32844/2222-5374-2020-104-2.07.
[13] Tomchuk, I.O. (2019). Criminogenic determinants of anoffer, promise or givin ganil legal benefitto an official in Ukraine. *International Scientific Journal Internauka*, 1, 45-55.
[14] Asadullah, M.N., & Chakravorty, N.N.T. (2019). Growth, governance and corruptionin Bangladesh: A re-assessment. *Third World Quarterly*, 40(5),947-965. doi: 10.1080/01436597.2019.1599854.
[15] Valarini, E., & Pohlmann, M. (2019). Organizational crime and corruption in Brazil a case study of the "Operation Carwash" courtrecords. *International Journal of Law, Crimeand Justice*, 59, article number 100340. doi: 10.1016/j.ijlcj.2019.100340.
[16] Joulaei, H., Lankarani, K., Shahabi, S., Azizmohammadi, F., & Keshavarzian, A. (2021). Critical analysis of corruption in Iran's health care system and its control strategies. *Shiraz E-Medical Journal*, 23(3), article number e115669. doi: 10.5812/semj.115669.
[17] Vyas, L., & Wu, A.M. (2020). Anti-corruption policy: China's tiger hunt and India's demonetization. *International Journal of Public Administration*, 43(11), 1000-1011. doi: 10.1080/01900692.2020.
[18] Liu, G., & Liu, S. (2017). Corruption crime and punishment: evidence from China's state corruption audits. *Journal of Financial Crime*, 24(4), 601-619. doi: 10.1108/JFC-06-2016-0044.
[19] Hope, O.-K., Yue, H., & Zhong, Q. (2020). China's anti-corruption campaign and financial reporting quality. *Contemporary Accounting Research*, 37(2), 1015-1043. doi: 10.1111/1911-3846.12557.
[20] Perez Torres, G. (2020). The effectiveness of the international anti-corruption legal framework in the context and practice of Colombia. *Journal of Financial Crime*, 27(2), 437-476. doi: 10.1108/JFC-09-2019-0126.
[21] Nwozor, A., & Afolabi, O. (2022). Keeping up appearance? Nigeria's anti-corruption crusade and image dilemma in the global arena. *Journal of Financial Crime*. doi: 10.1108/JFC-02-2022-0039.
[22] Olujobi, O.J. (2021). *Nigeria's upstream petroleum industry anti-corruption legal framework: The necessity for overhauling and enrichment*. Retrieved from https://www.emerald.com/insight/content/doi/10.1108/JMLC-10-2020-0119/full/html.
[23] Nobanee, H., Atayah, O.F., & Mertzanis, C. (2020). Does anti-corruption disclosure affect banking performance? *Journal of Financial Crime*, 27(4), 1161-1172. doi: 10.1108/JFC-04-2020-0047.
[24] Bahoo, S. (2020). Corruption in banks: A bibliometric review and agenda. *Finance Research Letters*, 35, article number 101499. doi: 10.1016/j.frl.2020.101499.
[25] Bahoo, S., Alon, I., & Floreani, J. (2021). Corruption in economics: A bibliometric analysis and research agenda. *Applied Economics Letters*, 28(7), 565-578. doi: 10.1080/13504851.2020.1764476.
[26] Bahoo, S., Alon, I., & Paltrinieri, A. (2020). Corruption in international business: A review and research agenda. *International Business Review*, 29(4), article number 101660. doi: 10.1016/j.ibusrev.2019.101660.
[27] Nazarova, K., Nezhyva, M., Hordopolov, V., & Mysiuk, V. (2021). Anti-corruption audit as an imperative of effective environmental management. *MATEC Web of Conferences*, 339, article number 01011. doi: 10.1051/matecconf/202133901011.
[28] Bondarenko, O., Utkina, M., Reznik, O., Malanchuk, P., & Yurakh, V. (2022). Combating sports corruption: An analysis of international regulations: Lucha contra la corrupción deportiva: Un análisis de las regulaciones internacionales. *Cuestiones Políticas*, 40(73), 364-376. doi: 10.46398/cuestpol.4073.19.

[29] Vozniuk, A. (2021). Corruption related criminal offenses: Conceptual issues in the context of reforming the criminal legislation of Ukraine. *Law Journal of the National Academy of Internal Affairs*, 20(2), 21-32. doi: 10.33270/04202002.21.
[30] Kabaiev, V. (2020). Features of objective signs of crimes committed by officials who hold a particularly responsible position. *Journal of the Kyiv University of Law*, 2, 404-409. doi: 10.36695/2219-5521.2.2020.79.
[31] Kartavtsev, V.S., Tomchuk, I.O., & Prytula, S.A. (2020). Criminal legal analysis of provocation of bribery under the legislation of Ukraine and foreign countries. *Law and Society*, 4, 227-235. doi: 10.32842/2078-3736/2020.4.33.
[32] Oheruk, I. (2019). About list of corruption crimes provided by the criminal code of Ukraine. *Scientific and Information Bulletin of the Ivano-Frankivsk University of Law named after King Danylo Halytskyi*, 7(19), 153-159. doi: 10.33098/2078-6670.2019.7.19.
[33] Chuhunikov, I.I. (2020). The purpose of obtaining an improper benefit is a necessary sign of abuse of power or official position. *Scientific Legal Journal*, 10, 254-258. doi: 10.32847/ln.2020.10.36.
[34] Sukhachova, I. (2019). The role of operational and investigative activities in identifying, investigating and disclosing the unlawful benefit of service persons. *Herald of Criminal Justice*, 3, 100-109. doi: 10.17721/2413-5372.2019.3/100-109.
[35] Stepaniuk, R.L., Kikinchuk, V.V., & Shcherbakovskyi, M.H. (2021). Proving corruption in the investigative and judicial practice of Ukraine: Problems and solutions. *Law and Safety*, 80(1), 101-108. doi: 10.32631/pb.2021.1.14.
[36] Tarkan, O.M. (2020). Peculiarities of conducting of investigative (search) actions during the investigation of obtaining of illegitimate benefit by police officials. *Legal Scientific Electronic Journal*, 3, 416-419.
[37] Shevchuk, V.M. (2022). Identification of signs of corruption criminal offenses as a structural element of criminalistic methodic for investigation. *Legal Scientific Electronic Journal*, 7, 425-430. doi: 10.32782/2524-0374/2022-7/103.
[38] Magherescu, D. (2020). Criminal investigation of the corruption crimes: evidence and procedure in an interdisciplinary approach. *Brazilian Journal of Criminal Procedure*, 6(3), 1239-1270. doi: 10.22197/rbdpp.v6i3.394.
[39] Bhattacherjee, A., & Shrivastava, U. (2018). The effects of ICT use and ICT Laws on corruption: A general deterrence theory perspective. *Government Information Quarterly*, 35(4), 703-712. doi: 10.1016/j.giq.2018.07.006.
[40] Adam, I., & Fazekas, M. (2021). Are emerging technologies helping win the fight against corruption? A review of the state of evidence. *Information Economics and Policy*, 57, article number 100950. doi: 10.1016/j.infoecopol.2021.100950.
[41] Albul, S.V. (2019). Intelligence function of operatively-search activities of the Ukrainian National Police: questions of conceptualization and procdualization. *Legal Scholarly Discussions in the XXI Century*. Lviv-Toruń: Liha-Pres. doi: 10.36059/978-966-397-121-6/1-19.
[42] Cherniak, A.M. (2019). Carrying out a special task to uncover the criminal activities of an organized group or criminal organization in the field of international student exchange. *Herald of Criminal Justice*, 4, 69-77. doi: 10.17721/2413-5372.2019.4/69-77.
[43] Kharaberiush, I.F. (2019). Covert investigative (research) actions as an object of judicial control. *Bulletin of the Mariupol State University*, 18, 62-69. doi: 10.34079/2226-3047-2019-9-18-62-69.
[44] Kniaziev, S.M. (2019). Peculiarities of the prosecutor's supervision over the implementation of operational investigative activities and covert work by units of the National Police of Ukraine. *Scientific Bulletin of the International Humanitarian University*, 42(1), 130-135. doi: 10.32841/2307-1745.2019.42-1.28.
[45] Atkinson, C. (2019). Mind the grass! Exploring the assessment of informant coverage in policing and law enforcement. *Journal of Policing, Intelligence and Counter Terrorism*, 14, 1-19. doi: 10.1080/18335330.2019.1572913.
[46] Kruisbergen, E.W. (2017). When other methods fail... Infiltrating organized crime groups in the Netherlands. *Contemporary Organized Crime*, 15, 253-278. doi: 10.1007/978-3-319-55973-5_15.
[47] Loftus, B. (2019). Normalizing covert surveillance: The subterranean world of policing. *The British Journal of Sociology*, 70(5), 2070-2091. doi: 10.1111/1468-4446.12651.
[48] Schlembach, R. (2018). Undercover policing and the spectre of 'domestic extremism': The covert surveillance of environmental activism in Britain. *Social Movement Studies*, 17, 1-16. doi: 10.1080/14742837.2018.1480934.
[49] Tymoshenko, Y.P., Kozachenko, O.I., Kyslenko, D.P., Horodetska, M.S., Chubata, M.V., & Barhan, S.S. (2022). Latest technologies in criminal investigation (testing of foreign practices in Ukraine). *Amazonia Investiga*, 11(51), 149-160. doi: 10.34069/AI/2022.51.03.14.
[50] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[51] Site "Unified state register of court decisions". (2022). Retrieved from https://reyestr.court.gov.ua.
[52] Decree of the President of Ukraine "On the observance of human rights during operational and technical measures" No. 1556/2005. (2005, November). Retrieved from http://zakon5.rada.gov.ua/laws/show/1556/2005.

[53] Law of Ukraine No. 2135-XII "On Operative Investigative Activity". (1992, February). Retrieved from https://zakon.rada.gov.ua/laws/card/2135-12.
[54] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/card/4651-17.
[55] Tolpyho, D.M. (2015). Peculiarities of legal regulation of examination of publicly inaccessible places, habitation or other property of a person. *Pravova Derzhava*, 20, 162-166.
[56] Resolution of the Supreme Court of the panel of judges of the Third Chamber of the Criminal Court of Cassation. Case No. 164/104/18, proceedings No. 51-10414km18. (2020, April). Retrieved from https://zakon.cc/court/document/read/88749774_2b1445b8.
[57] Resolution of the Supreme Court of the panel of judges of the Third Judicial Chamber of the Criminal Court of Cassation. Case No. 166/1199/18, proceedings No. 51- 6317 km 20. (2021, May). Retrieved from http://iplex.com.ua/doc.php?regnum=96856703&red=100003a3f57b95fbce68f7bfbc82b8f437c55a&d=5.
[58] Resolution of the Supreme Court of the panel of judges of the First Judicial Chamber of the Criminal Court of Cassation. Case No. 332/2723/15-k, proceedings No. 51-1579km19. (2019, November). Retrieved from https://zakononline.com.ua/court-decisions/show/85836389.
[59] Pohoretskyi, M.A. (2016). The use of provocation in the course of secret investigations: The question of legality. *Herald of Criminal Justice*, 1, 33-43. Retrieved from http://vkslaw.univ.kiev.ua/images/verstka/1_2016_Pogoretskyi.pdf.
[60] Resolution of the Supreme Court of the panel of judges of the Second Judicial Chamber of the Criminal Court of Cassation, Case No. 681/1024/16-k, proceedings No. 51-6874km18. (2019, December). Retrieved from https://zakononline.com.ua/court-decisions/show/86566021.
[61] Resolution of the Supreme Court of the panel of judges of the Third Judicial Chamber of the Criminal Court of Cassation, Case No. 263/10353/16-k, proceedings No. 51-4972km20. (2021, February). Retrieved from https://zakon.cc/court/document/read/95042547_3b541708.
[62] Cherniavskyi, S.S., Vozniuk, A.A., & Dudarets, R.M. (et al.). (2017). *Investigation of the acceptance of an offer, promise or receipt of an improper benefit by an official*. Kyiv: National University.
[63] Law of Ukraine No. 3855-XII "On State Secrets". (1994, January). Retrieved from https://zakon.rada.gov.ua/laws/card/3855-12.

Список використаних джерел

[1] Індекс сприйняття корупції – 2021 : [сайт]. URL: https://cpi.ti-ukraine.org/.
[2] Brody R. G., Gupta G., Ekofo A. N., Ogunade K. M. The need for anti-corruption policies in developing countries. *Journal of Financial Crime*. 2020. Vol. 28. No. 1. P. 131–141. doi: 10.1108/JFC-06-2020-0099.
[3] Dung Q., Sy T., Nga K., Lan M., Tung T., Trung G. Ch. F. Two decades of corruption research in ASEAN: A bibliometrics analysis in Scopus database (2000–2020). *Cogent Social Sciences*. 2021. Vol. 7. Issue 1. doi: 10.1080/23311886.2021.2006520.
[4] Kuipers S. Rethinking anti-corruption efforts in international development. *Journal of Financial Crime*. 2022. Vol. 29. No. 4. P. 1370–1381. doi: 10.1108/JFC-08-2021-0176.
[5] Marquette H., Peiffer C. Grappling with the «realpolitik's» of systemic corruption: Theoretical debates versus «real-world» functions. *Governance*. 2018. No. 31. P. 499–514. doi: 10.1111/gove.12311.
[6] Melnyk D. S., Parfylo O. A., Butenko O. V., Tykhonova O. V., Zarosylo V. O. Practice of the member states of the European Union in he field of anti-corruption regulation. *Journal of Financial Crime*. 2022. Vol. 29. No. 3. P. 853–863. doi: 10.1108/JFC-03-2021-0050.
[7] Orlovskyi R., Shapoval R., Demenko O. Possibilities of adapting the typologies of the international standards for establishing criminal liability for corruption-related crimes in Ukraine. *Journal of Eastern European and Central Asian Research (JEECAR)*. 2018. No. 5 (2). P. 108–112. doi: 10.15549/jeecar.v5i2.230.
[8] Гура В. Корупція: поняття та види, причини виникнення. *Економічний аналіз*. 2022. Т. 32. № 2. С. 73–81. doi: 10.35774/econa2022.02.073.
[9] Доброскок А. Кримінологічні детермінанти злочинності у сфері інтелектуальної власності. *Науковий вісник Національної академії внутрішніх справ*. 2021. Т. 118. № 1. С. 76–81. doi: 10.33270/01211181.76.
[10] Кікалішвілі М. В. Сучасні тенденції корупційної злочинності в Україні. *Прикарпатський юридичний вісник*. 2019. Вип. 3 (28). Т. 2. С. 63–67. doi: 10.32837/pyuv.v2i3(28).359.
[11] Легка О. В. Основні детермінанти, які зумовлюють корупційні правопорушення в Україні. *Право і суспільство*. 2020. № 3 С. 44–49. doi: 10.32842/2078-3736/2020.3.6.
[12] Мойсеєнко В. В. Детермінанти вчинення кримінальних правопорушень у сфері господарської діяльності. *Юридична наука*. 2020. № 2 (104). С. 50–60. doi: 10.32844/2222-5374-2020-104-2.07.
[13] Томчук І. О. Криміногенні детермінанти пропозиції, обіцянки або надання неправомірної вигоди службовій особі в Україні. *Інтернаука*. 2019. № 1. С. 45–55. (Серія «Юридичні науки»).

[14] Asadullah M. N., Chakravorty N. N. T. Growth, governance and corruption in Bangladesh: A re-assessment. *Third World Quarterly*. 2019. No. 40 (5). P. 947–965. doi: 10.1080/01436597.2019.1599854.
[15] Valarini E., Pohlmann M. Organizational crime and corruption in Brazil a case study of the «Operation Carwash» court records. *International Journal of Law, Crime and Justice*. 2019. No. 59. doi: 10.1016/j.ijlcj.2019.100340.
[16] Joulaei H., Lankarani K., Shahabi S., Azizmohammadi F., Keshavarzian A. Critical analysis of corruption in Iran's health care system and its control strategies. *Shiraz E-Medical Journal*. 2021. Vol. 23. No. 3. Article number e115669. doi: 10.5812/semj.115669.
[17] Vyas L., Wu A. M. Anti-corruption policy: China's tiger hunt and India's demonetization. *International Journal of Public Administration*. 2020. No. 43 (11). P. 1000–1011. doi: 10.1080/01900692.2020.
[18] Liu G., Liu S. Corruption crime and punishment: Evidence from China's state corruption audits. *Journal of Financial Crime*. 2016. No. 24 (4). P. 601–619. doi: 10.1108/JFC-06-2016-0044.
[19] Hope O.-K., Yue H., Zhong Q. China's anti-corruption campaign and financial reporting quality. *Contemporary Accounting Research*. 2020. No. 37 (2). P. 1015–1043. doi: 10.1111/1911-3846.12557.
[20] Perez Torres G. The effective ness of the international anti-corruption legal frame workin the context and practice of Colombia. *Journal of Financial Crime*. 2020. Vol. 27. No. 2. P. 437–476. doi: 10.1108/JFC-09-2019-0126.
[21] Nwozor A., Afolabi O. Keeping up appearance? Nigeria's anti-corruption crusade and image dilemma in the global arena. *Journal of Financial Crime*. 2022. Vol. ahead-of-print. No. ahead-of-print. doi: 10.1108/JFC-02-2022-0039.
[22] Olujobi O. J. Nigeria's upstream petroleum industry anti-corruption legal framework: The necessity for overhauling and enrichment. *Journal of Money Laundering Control*. 2021. Vol. ahead-of-print. No. ahead-of-print. doi: 10.1108/JMLC-10-2020-0119.
[23] Nobanee H., Atayah O. F., Mertzanis C. Does anti-corruption disclosure affect banking performance? *Journal of Financial Crime*. 2020. Vol. 27. No. 4. P. 1161–1172. doi: 10.1108/JFC-04-2020-0047.
[24] Bahoo S. Corruption in banks: A bibliometric review and agenda. *Finance Research Letters*. 2020. No. 35. doi: 10.1016/j.frl.2020.101499.
[25] Baho S., Alon I., Floreani J. Corruption in economics: A bibliometric analysis and research agenda. *Applied Economics Letters*. 2021. No. 28 (7). P. 565–578. doi: 10.1080/13504851.2020.1764476.
[26] Bahoo S., Alon I. Paltrinieri A. Corruption in international business: A review and research agenda. *International Business Review*. 2020. Vol. 29. Issue 4. doi: 10.1016/j.ibusrev.2019.101660.
[27] Nazarova K., Nezhyva M., Hordopolov V., Mysiuk V. Anti-corruption audit as an imperative of effective environmental management. *MATEC Web of Conferences*. 2021. No. 339. doi: 10.1051/matecconf/202133901011.
[28] Bondarenko O., Utkina M., Reznik O., Malanchuk P., Yurakh V. Combating sports corruption: An analysis of international regulations. *Cuestiones Políticas*. 2022. No. 40 (73). P. 364–376. doi: 10.46398/cuestpol.4073.19.
[29] Вознюк А. Корупційні кримінальні правопорушення: концептуальні проблеми в контексті реформування кримінального законодавства України. *Юридичний часопис Національної академії внутрішніх справ*. 2021. № 20 (2). С. 21–32. doi: 10.33270/04202002.21.
[30] Кабаєв В. М. Особливості об'єктивних ознак злочинів, вчинених службовими особами, які займають особливо відповідальне становище. *Часопис Київського університету права*. 2020. № 2. С. 404–409. doi: 10.36695/2219-5521.2.2020.79.
[31] Картавцев В. С., Томчук І. О., Притула С. А. Кримінально-правовий аналіз провокації підкупу за законодавством України та зарубіжних країн. *Право і суспільство*. 2020. № 4. С. 227–235. doi: 10.32842/2078-3736/2020.4.33.
[32] Огерук І. Щодо переліку корупційних злочинів, передбачених кримінальним кодексом України. *Науково-інформаційний вісник Івано-Франківського університету права імені Короля Данила Галицького*. 2019. № 7 (19). С. 153–159. (Серія «Право»). doi: 10.33098/2078-6670.2019.7.19.
[33] Чугуніков І. І. Мета одержання неправомірної вигоди як обов'язкова ознака зловживання владою або службовим становищем. *Науковий юридичний журнал*. 2020. №10. С. 254–258. doi: 10.32847/ln.2020.10.36.
[34] Сухачова І. О. Роль оперативно-розшукової діяльності у виявленні, розслідуванні та розкритті одержання неправомірної вигоди службовими особами. *Вісник кримінального судочинства*. 2019. № 3. С. 100–109. doi: 10.17721/2413-5372.2019.3/100-109.
[35] Степанюк Р. Л., Кікінчук В. В.,Щербаковський М. Г. Доказування корупції у слідчій і судовій практиці України: проблеми та шляхи вирішення. *Право і безпека*. 2021. № 80 (1). С. 101–108. doi: 0.32631/pb.2021.1.14.
[36] Таркан О. М. Особливості проведення слідчих (розшукових) дій під час розслідування одержання неправомірної вигоди службовою особою органу поліції. *Юридичний науковий електронний журнал*. 2020. № 3. С. 416–419. doi: 10.32782/2524-0374/2020-3/101.
[37] Шевчук В. М. Виявлення ознак корупційних кримінальних правопорушень як структурний елемент криміналістичної методики розслідування. *Юридичний науковий електронний журнал*. 2022. № 7. С. 425–430. doi: 10.32782/2524-0374/2022-7/103.

[38] Magherescu D. Criminal investigation of the corruption crimes: Evidence and procedure in an interdisciplinary approach. *Brazilian Journal of Criminal Procedure*. 2020. No. 6 (3). P. 1239–1270. doi: 10.22197/rbdpp.v6i3.394.
[39] Bhattacherjee A., Shrivastava U. The effects of ICT use and ICT law son corruption: A general deterrence the or perspective. *Government Information Quarterly*. 2018. No. 35 (4). P. 703–712. doi: 10.1016/j.giq.2018.07.006.
[40] Adam I., Fazekas M. Are emerging technologies helping win the fight against corruption? A review of the state of evidence. *Information Economics and Policy*. 2021. Vol. 57. doi: 10.1016/j.infoecopol.2021.100950.
[41] Albul S. V. Intelligence function of operatively-search activities of the Ukrainian National Police: questions of conceptualization and procdualization. *Legal Scholarly Discussions in the XXI Century*. Lviv-Toruń : Liha-Pres, 2019. doi: 10.36059/978-966-397-121-6/1-19.
[42] Черняк А. М. Виконання спеціального завдання з розкриття злочинної діяльності організованої групи чи злочинної організації у сфері міжнародного студентського обміну. *Вісник кримінального судочинства*. 2019. № 4. С. 69–77. doi: 10.17721/2413-5372.2019.4/69-77.
[43] Харабєрюш І. Ф. Негласні слідчі (розшукові) дії як об'єкт судового контролю. *Вісник Маріупольського державного університету*. 2019. № 18. С. 62–69. (Серія «Право»). doi: 10.34079/2226-3047-2019-9-18-62-69.
[44] Князєв С. М. Особливості прокурорського нагляду за здійсненням оперативно-розшукової діяльності та негласної роботи підрозділами національної поліції України. *Науковий вісник Міжнародного гуманітарного університету*. 2019. № 42 (1). С. 130–135. (Серія «Юриспруденція»). doi: 10.32841/2307-1745.2019.42-1.28.
[45] Atkinson C. Mind the grass! Exploring the assessment of informant coverage in policing and law enforcement. *Journal of Policing, Intelligence and Counter Terrorism*. 2019. No. 14. P. 1–19. doi: 10.1080/18335330.2019.1572913.
[46] Kruisbergen E. W. When other methods fail… In filtrating organized crime groups in the Netherlands. *Contemporary Organized Crime*. 2017. Chapter 15. P. 253–278. doi: 10.1007/978-3-319-55973-5_15.
[47] Loftus B. Normalizing covert surveillance: The subterranean world of policing. *The British Journal of Sociology*. 2019. Vol. 70. Issue 5. P. 2070–2091. doi: 10.1111/1468-4446.12651.
[48] Schlembach R. Under cover policing and the spectra of 'domestic extremism': The covert surveillance of environmental activism in Britain. *Social Movement Studies*. 2018. No. 17. P. 1–16. doi: 10.1080/14742837.2018.1480934.
[49] Tymoshenko Y. P., Kozachenko O. I., Kyslenko D. P., Horodetska M. S., Chubata M. V., Barhan S. S. Latest technologies in criminal investigation (testing of foreign practices in Ukraine). *Amazonia Investiga*. 2022. No. 11 (51). P. 149–160. doi: 10.34069/AI/2022.51.03.14/.
[50] Кримінальний кодекс України : Закон України від 4 квіт. 2001 р. № 2341-III. URL: https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[51] Єдиний державний реєстр судових рішень : [сайт]. URL: https://reyestr.court.gov.ua.
[52] Про додержання прав людини під час проведення оперативно-технічних заходів : Указ Президента України від 7 листоп. 2005 р. № 1556/2005. URL: http://zakon5.rada.gov.ua/laws/show/1556/2005.
[53] Про оперативно-розшукову діяльність : Закон України від 18 лют. 1992 р. № 2135-XII. URL: https://zakon.rada.gov.ua/laws/card/2135-12.
[54] Кримінальний процесуальний кодекс України : Закон України від 13 квіт. 2012 р. № 4651-VI. URL: https://zakon.rada.gov.ua/laws/card/4651-17.
[55] Толпиго Д. М. Особливості правового регулювання обстеження публічно-недоступних місць, житла чи іншого володіння особи. *Правова держава*. 2015. № 20. С. 162–166.
[56] Постанова Верховного Суду колегії суддів Третьої судової палати Касаційного кримінального суду від 8 квіт. 2020 р. Справа № 164/104/18, провадження № 51-10414км18. URL: https://zakon.cc/court/document/read/88749774_2b1445b8.
[57] Постанова Верховного Суду колегії суддів Третьої судової палати Касаційного кримінального суду від 12 трав. 2021 р. Справа № 166/1199/18, провадження № 51- 6317 км 20. URL: http://iplex.com.ua/doc.php?regnum = 96856703&red = 100003a3f57b95fbce68f7bfbc82b8f437c55a&d = 5.
[58] Постанова Верховного Суду колегії суддів Першої судової палати Касаційного кримінального суду від 19 листоп. 2019 р. Справа № 332/2723/15-к, провадження № 51-1579км19. URL: https://zakononline.com.ua/court-decisions/show/85836389.
[59] Погорецький М. А. Застосування провокації в ході негласних розслідувань: питання правомірності. *Вісник кримінального судочинства*. 2016. № 1. С. 33–43. URL: http://vkslaw.univ.kiev.ua/images/verstka/1_2016_Pogoretskyi.pdf.

[60] Постанова Верховного Суду колегії суддів Другої судової палати Касаційного кримінального суду від 12 груд. 2019 р. Справа № 681/1024/16-к, провадження № 51-6874км18. URL: https://zakononline.com.ua/court-decisions/show/86566021.
[61] Постанова Верховного Суду колегії суддів Третьої судової палати Касаційного кримінального суду від 17 лют. 2021 р. Справа № 263/10353/16-к, провадження № 51-4972км20. URL: https://zakon.cc/court/document/read/95042547_3b541708.
[62] Розслідування прийняття пропозиції, обіцянки або одержання неправомірної вигоди службовою особою : метод. рек. / [С. С. Чернявський, А. А. Вознюк, Р. М. Дударець та ін.]. Київ : НАВС, 2017. 96 с.
[63] Про державну таємницю : Закон України від 21 січ. 1994 р. № 3855-XII. URL: https://zakon.rada.gov.ua/laws/card/3855-12.

Оперативно-технічні заходи в протидії корупційним злочинам, пов'язаним з підкупом

Михайло Леонідович Грібов

Доктор юридичних наук, професор. ORCID: https://orcid.org/0000-0003-2437-5598.
Національна академія внутрішніх справ, 03035, пл. Солом'янська, 1, м. Київ, Україна

■ **Анотація**. Законодавець і розробники підзаконних нормативно-правових актів, теоретики та практики розглядають протидію корупції як один з пріоритетних напрямів внутрішньої політики України. Проте робота правоохоронців з виявлення та розслідування корупційних злочинів є недостатньо продуктивною. Але саме в правовому регулюванні проведення оперативно-технічних заходів і негласних слідчих дій накопичилася низка проблем, що й зумовлює актуальність цього дослідження. Мета роботи полягає в окресленні кола проблем правового регулювання та практичного застосування оперативно-технічних заходів і відповідних негласних слідчих дій у протидії корупційним злочинам, пов'язаних з підкупом. Методологічний інструментарій підібрано відповідно до обраної мети та з огляду на об'єкт і предмет дослідження. Підґрунтям дослідження є загальний діалектичний метод пізнання, який використано для вивчення соціальних та правових явищ і процесів, а також для встановлення їх зв'язків з роботою оперативних і слідчих підрозділів правоохоронних органів, прокуратури та суду. Крім того, використано загальнонаукові й спеціальні методи правничої науки, серед яких: логіко-юридичний (догматичний); системно-структурний; порівняльно-правовий і компаративний; соціологічний. Обґрунтовано, що необхідною умовою підвищення ефективності застосування оперативно-технічних заходів і відповідних негласних слідчих дій у протидії корупційним злочинам є конкретизація та деталізація законодавчих норм, якими встановлюється зміст і порядок проведення окремих заходів. На рівні закону потрібно подати визначення усіх оперативно-технічних заходів (і відповідних негласних слідчих (розшукових) дій), чітко розмежувавши між собою аудіо-, відеоконтроль: особи; публічно недоступного місця; публічно доступного місця, а також візуального спостереження за публічно доступним місцем з використанням фотографування, відеозапису та спеціальних технічних засобів для спостереження. Практична цінність роботи зумовлена перспективами використання отриманих результатів для вдосконалення правового регулювання оперативно-розшукової діяльності та кримінального провадження

■ **Ключові слова**: оперативно-розшукові заходи; негласність; слідчі дії; корупція; хабар; неправомірна вигода; правове регулювання; законність