

raiding, improve supervision of the observance of legality in the market of mergers and acquisitions, to ensure coordination of law enforcement and regulatory authorities and executive authorities and local governments.

Improvement of legislation, regulation of relations related to corporate disputes, strengthening the criminal responsibility for organizing raiding.

Targeted formation of negative attitudes in society and condemnation of any attempt to capture illegal businesses, active involvement of law enforcement and regulatory agencies and NGOs. After all, civil society is an indicator of the effectiveness of government action to combat illegal activities intruders.

On some individual parts counter raiding, then, according to lawyers, the best way to protect yourself from raiding - to focus more on legal support of corporate procedures at the facility. Many raiding starts due to a misunderstanding between the shareholders, and therefore in the creation of enterprises is essential spelled out the structure of government relations future business owners, as well as ways and mechanisms of decision-making asset management.

Keywords: *corporate raiding, right of ownership, illegal redistribution of property, illegal alienation of property, unfriendly absorption.*

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Chaplyns'ka Yu. A.
candidate of legal sciences
(the Dnipropetrovs'k State
University of Internal Affairs)

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SIMULTANEOUS INTERROGATION OF TWO EARLIER INTERROGATED PERSONS: ORGANIZATIONAL ASPECT

Чаплинська Ю. А. Одночасний допит двох раніше допитаних осіб: організаційний аспект. Досліджено актуальні проблемні питання організаційного забезпечення проведення одночасного допиту двох раніше допитаних осіб. Розглянуто організаційно-підготовчі заходи до проведення одночасного допиту за участю підозрюваних і обвинувачених.

Ключові слова: *організація, організаційне забезпечення, слідчі дії, одночасний допит.*

Statement of the problem. Simultaneous interrogation of two early interrogated persons («confrontation») is the most common and effective investigative action, which gathers information about the criminal offence and the criminal activities of certain persons. This is due to the high informative features simultaneous interrogation and reliability, ease and speed of obtaining results.

At the same time, the simultaneous interrogation is one of the most difficult investigatory actions. On the one hand, the complexity of the investigations is that the investigator does not possess by the time investigations exhaustive data about the personality of the offender and a certain amount of evidence that can be used during its implementation. On the other hand, suspected (accused) are not always interested in a full and comprehensive disclosure and investigation of criminal

offences, which cannot but affect the truthfulness of their testimony. In addition, victims and witnesses is a negative impact from the side of the criminals, which often leads to changes in their testimony.

Despite this, successful confrontation and positive results depends on the quality of the possession of the investigators knowledge of the laws of thought, logical methods and techniques, the laws of psychology and tactics developed in criminalistics.

Generalization of investigative practice has shown that a confrontation was held with the investigation of criminal offences against life, health and sexual freedom - 81 %; committed criminal groups - 80 %; against property - 78 %; in the sphere of economic activity - 51 %; against public safety, public order and morality - 49 %; in the field of performance management - 13 %. However, despite its prevalence, this investigative action has a rather low efficiency. Today, a significant percentage of staff investigative units of internal Affairs bodies (71 %) considered the simultaneous interrogation inefficient and often uses it only to confirm previous evidence of participants, that is, to hold them in place. This approach unnecessarily narrows the possible investigative actions as a way of obtaining evidence from personal sources. The situation, on the one hand, due to the particular complexity and laboriousness in preparing and conducting this investigation, and on the other, the lack of forensic knowledge and professional communicative skills of the investigator about the simultaneous interrogation. Despite this, the organizational support simultaneous interrogation previously interrogated persons today has a number of outstanding organizational and tactical problems.

Analysis of publications which discuss the solution to this problem. A common tactic of simultaneous interrogation previously interrogated persons covered fully enough scientists, criminologists and processually in forensic literature. In particular, a significant contribution to the development of scientific bases of investigative steps made famous scientists, criminologists and scientists, in particular, M.V. Bakharev, O.M. Vasiliev, V.K. Veselsky, F. W. Glazyrin, A.V. Dulov, L.M. Carneeva, V.O.Konovalova, E.D. Lukjanchikov, M.I. Porubov, O. V. Solov'ev, S.M. Stahivskiy, O.R. Ratinov, V.M. Tertyshnyk, K.O Chaplinsky, V.Y. Shepitko and others. The significance of the conducted research is predicated on the creation of a solid base for further research improvements tactics of the production of this investigative actions, which are widely used in law enforcement practice and is a common way of collecting actual data from personal sources.

However, at present there is no integrated development with tactical support for simultaneous interrogation previously interrogated persons Not fully investigated the factors affecting the efficiency of carrying out this investigation. In the literature were not considered and were not subjected to analysis of typical tactical errors investigators that affect the effectiveness of the simultaneous interrogation.

So, the **purpose** of this article is to highlight the problem of organizational issues organizational support simultaneous interrogation previously interrogated

persons taking into account the modern needs of the investigative practices.

Basic content. In criminal proceedings the simultaneous interrogation of previously interrogated persons known as an effective way of testing available and obtain new evidence. According to p. 9 art. 224 of the Criminal procedure code of Ukraine, the investigator, the Prosecutor has the right to conduct simultaneous interrogation of two or more already questioned persons to determine the causes of the discrepancies in their testimony.

We can agree with E.D. Lukyanchikov that the reason for the simultaneous interrogation is the presence of significant inconsistencies in the testimony previously interrogated persons [1, p. 30].

An important place in the tactics of simultaneous interrogation take organizational and preparatory activities prior to the conference. Well-organized investigative action should be active, offensive, in the shortest amount of time, and the control action should be aimed at the solution of tactical problems.

In the scientific literature, the authors ambiguous approach to the determination of the necessary preparatory measures. Thus, according to J.V. Gavrilin, preparation for simultaneous interrogation must include: the study of previously obtained evidence; establishing the content of contradictions; the study of the person being questioned; clarify the circumstances to be installed; determining the sequence of the interrogation; the choice of time and place of the meeting; selection and systematization of evidence; the wording of the questions and the determination of their sequences [2, p. 51].

M.G. Shuryhnov adds a definition of place, time and way to call on the interrogation; the creation of the necessary conditions of the interrogation; the definition of the circle of participants of investigative actions; determination means fixing investigations; plan investigations [3, p. 389].

Summarizing the views of scientists and the results of the study of criminal proceedings, as well as the materials of the survey members of the investigative and operational units, you can come to the conclusion that the most significant organizational and preparatory activities for conducting simultaneous interrogation include:

1. The study materials of criminal procedure allows the investigator primarily to address the question whether the simultaneous interrogation. This measure allows us to examine the person questioned, to determine the extent of their relationship and the nature of the dispute in the testimony, to determine the list of questions and their sequence, to choose the most effective techniques of investigative actions.

2. The decision on conducting simultaneous interrogation. Deciding and determining the time of the confrontation, it is necessary to consider the nature of evidence to be authenticated, their place in the system of other evidence, and psychological qualities of its participants and the relationships between them. The investigator should consider the materiality of the contradictions in the testimony. If discrepancies in the testimony can be eliminated by other means with less tactical risk, the simultaneous interrogation of inappropriate conduct and the

investigator must abandon it. This is especially true for simultaneous interrogation between members of criminal groups and their leaders. Often lawyers are applying for investigative actions with honest its members to provide psychological impact, clarifying awareness of the investigator.

When deciding the investigator should analyze and evaluate the collected information and investigating the situation at a certain stage of pre-trial investigation. It is impossible to carry out Simultaneous interrogation between two persons for «fixing» their testimony, which does not contain contradictions. No evidentiary value of such investigative action has not. There is a wrong tactic for simultaneous interrogation, in which the investigator in the presence of its participants only read their testimony previously obtained during their interrogation. The value of investigative actions to contain it in a simultaneous interrogation of two persons, whose testimony there are contradictions.

3. The timing and venue of simultaneous interrogation. Investigative actions must be sudden in nature. Any delay in conducting the simultaneous interrogation can lead to decrease the possibility of obtaining positive results. Hence, the correct definition of the time of the simultaneous interrogation has an important role in its preparation. The study of criminal proceedings, which were held simultaneous interrogations, allowed to come to the conclusion that their effectiveness depends on time and suddenness. The more time passed from the moment of occurrence of the necessary investigative actions, the less was its effectiveness. Any undue delay in its implementation pulling obtain false testimony or refusal to provide them.

During the investigations, the investigator shall take measures in order of time and the venue was known as little people. In some cases it is expedient to carry out directly after the interrogation of a person, in the testimony which revealed considerable controversy before questioned will have time to meet and to agree on further readings. In other cases, on the contrary, should not rush with the simultaneous interrogation, in order to avoid premature awareness being questioned about the nature of the testimony of each other. For example, premature knowledge of the accused about the content of his testimony of an accomplice or witness, obviously, does not help the success of the investigation.

4. Circumstances, subject to clarification. The subject of investigative actions are circumstances that gave rise to considerable discrepancies in the testimony previously interrogated persons, the Investigator must determine the range of issues requiring clarification, and in advance to raise the issue and to determine their sequence. Especially carefully it is necessary to approach the formulation of questions. First, decide General questions, and then order them Refine and detail the circumstances to prepare clarifying and follow-up questions.

5. For additional questioning. If necessary, the investigator may conduct additional questioning to clarify those or other circumstances of importance for criminal proceedings. Each of the participants may be simultaneous interrogation again questioned if their readings are contradictions, gaps or inaccuracies. However, it is unacceptable to prepare participants for simultaneous interrogation, to recommend, for example, «confident keep», «to actively expose» etc.

6. The definition of the entities, between which will be held simultaneous interrogation, and the sequence of their interrogation. During this event, the investigator should consider the possibility of being questioned individuals influence each other in positive and negative qualities, weaknesses, mental instability, etc. it is Necessary to predict the possibility of changing evidence.

Analysis of law enforcement practice and generalization of scientific views, leads to the conclusion that it is not appropriate investigative action:

- between persons who give false testimony;
- between the partners of a criminal offence at the initial stage of the investigation. This is because criminals can use even short-term contact, select the General line of conduct;
- between the accused, which partly acknowledge their guilt and prone to change testimony or adversely affect other participants;
- between people trying to reconcile its position with respect to each other or to transmit certain information;
- between persons of whom the one who gives true testimony is material, related to or otherwise dependent on the other party;
- when one of the participants in the confrontation refuses to give testimony in the presence of another person.

In these cases, the investigator is impractical to go to a tactical risk and you need to replace some actions or others.

Important tactical event in preparation for the simultaneous interrogation is the selection of its members, who will give evidence first. This is indicated by the staff of the investigative units. Thus, 79 % indicate that proper prioritization testimony contributes to the obtaining of evidence and declination unscrupulous party to give truthful testimony.

In the scientific literature rightly notes that the first provide an opportunity to speak to a person who, in the opinion of the investigator, give truthful statements that are true and damning a suspect in criminal activity; insists to give evidence in the presence of another person; the testimony of which are confirmed by other materials of the case.

After reviewing the investigative practices and the views of the scientists, it should be noted that an unscrupulous party investigative actions appropriate to examine first in such cases, when:

- the investigator is confident that bona fide investigative actions clearly adheres to the position and will not be exposed to negative influence.
- the investigator believes that the bona fide heard wrong, more fully and reasonably justify their position;
- indications of dishonest participant can so disturb another person questioned that he will report the result of new information;
- unscrupulous party so requests, with the aim to persuade her to change testimony in their favor, and the investigator is convinced otherwise, and intends to use the situation to get truthful information;
- the investigator is aware of the intention of unscrupulous party to use the

simultaneous interrogation to influence another person questioned, but I am sure in the insolvency of such attempts and plans to use this situation to obtain reliable readings.

Granting the right of unscrupulous party investigations to answer questions first should be carried out by the investigator in exceptional cases. A survey of investigators on this question allows us to come to the conclusion that 88 percent indicate that it is unacceptable to interrogate the first unscrupulous party; 12 % - it's a possibility, but only for tactical reasons by the investigator.

7. The selection of participants for the simultaneous interrogation. The main participants of investigative actions include the person who conducts investigative action, and two previously interrogated persons, in testimony of which are contradictions. Simultaneous interrogation takes place between them in any configuration, including between participants that have the same status. To prevent negative impact on bona fide member of the investigative actions, or information exchange for agreement in position before the investigative steps it is advisable to involve employees in operational units. These individuals monitor the behavior of the person questioned.

8. Psychological preparation of the participants simultaneous interrogation. To conduct investigations, the investigator must inform bona fide participants in the simultaneous interrogation of the possible difficulties of a psychological nature (threats, compromise) that may arise during its implementation, and provide recommendations that will prevent a negative impact.

According to P.D. Bilenchuk, V.K. Lisichenko and N.I. Klimenko the investigator should provide psychological readiness of the participants to conduct simultaneous interrogation is particularly needed for victims and witnesses, which first attracted to the sphere of the criminal process and may not adequately react to communicate with the suspect, resulting in a goal investigative actions will not be achieved. In necessary cases, to clarify the evidence of persons who have contradictions, the investigator may additionally be questioned before conducting simultaneous interrogation [4, p. 334]. Preliminary psychological training increases endurance and stamina bona fide member of the investigative actions to prevent negative impacts.

Investigators should note that the simultaneous interrogation may have a negative effect on the good faith of its participants. During the conduct of participants with different procedural status within visual observation of each other and have the possibility of psychological influence their behavior, gestures, intonation. Witnesses, victims, observing this behavior of the accused, giving false testimony, during the implementation of the investigator's authority relative to the performance of investigative actions don't understand why the investigator "allows" such statements, a seed of doubt in his testimony, the disappointment of justice that they are connected not only with the authority of the court, but with the powers of the investigator and the Prosecutor. In this situation, they see the impunity of the accused who is telling the truth.

9. Definition and preparation of technical means of fixation simultaneous

interrogation. The use of technology is quite effective during investigative actions involving foreigners, persons with physiological problems, because it allows to verify the correctness and completeness of the translation and correct deficiencies. For example, a survey of members of the investigative divisions allows us to conclude that when conducting investigations, the investigators do not always (9 %) use the technical possibilities. Analysis of criminal cases shows that the recording was conducted at a ratio of 1 290 cases.

10. The plan for simultaneous interrogation. Planning investigations should include: the wording of the questions that will be applied during interrogation; the prioritization of the interrogation; the definition of tactics of confrontation; the creation of conditions that will fully ensure the safety of its participants. However, a survey of investigators suggests that none of the respondents were of the plan investigative steps, 3 % were limited draft notes.

Conclusion. Summing up, it should be noted that the General behavior of suspects and accused persons, as a rule, aimed at reducing its role in the committed criminal offences, the concealment of past criminal activity. They affect sustainable position of victims and witnesses, delay pre-trial investigation, obstruct the investigation, therefore, the conduction between the simultaneous interrogation is the most important investigative action. Hence the simultaneous interrogation with such category of persons depends on the correct and effective ownership and operation rights investigators tactical methods and their application in practice. Improper preparation for simultaneous interrogation closely associated with the risk of possible changes truthful testimony bona fide member of refusal to give evidence or disclosure of data investigation. Undue delay in implementing the simultaneous interrogation may result in the loss of the element of surprise which contributes to the successful achievement of the purpose of investigations [5, S. 275]. Tactically conducted simultaneous interrogation previously interrogated persons, even if in its course and failed to overcome the significant contradictions in the testimony, should produce unfair participant's psychological effect, to undermine its installation on a lie, to help the investigator to verify the truthfulness of the testimony of the participants, to further explore their psychological quality, develop new areas for investigation.

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Чаплинская Ю. А. Одновременный допрос двух ранее допрошенных лиц (организационный аспект). Исследованы актуальные проблемные вопросы организационного обеспечения проведения одновременного допроса двух ранее допрошенных лиц. Рассмотрены организационно-подготовительные мероприятия проведения одновременного допроса с участием подозреваемых и обвиняемых.

Ключевые слова: организация, организационное обеспечение, следственные действия, одновременный допрос.

Chaplyns'ka Y. A. Simultaneous interrogation of two before interrogated persons(organizational aspect). This article is devoted to consideration of actual problem questions of tactical supply of carrying out of simultaneous interrogation of two before interrogated persons. The author have considered the organizational preparatory actions of carrying out of simultaneous interrogation of two before interrogated persons with participation of suspected and defendants.

Keywords: organisation, organisation supply, investigatory actions, simultaneous interrogation

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Шаблистий В. В.

кандидат юридичних наук, доцент
(Дніпропетровський державний
університет внутрішніх справ)

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СОЦІАЛЬНІ ТА КРИМІНАЛЬНО-ПРАВОВІ НАСЛІДКИ РЕАЛІЗАЦІЇ КОНСТИТУЦІЙНОГО ПРИНЦИПУ ВЕРХОВЕНСТВА ПРАВА В УКРАЇНІ

У статті набув подальшого розвитку нетрадиційний підхід до розуміння конституційного принципу верховенства права в Україні. Підтримано тих вчених, які однозначно вказують на необхідність нормативного закріплення та використання принципу верховенства закону, а не права, оскільки існують негативні і небезпечні соціальні та кримінально-правові наслідки превалювання права над законом.

Ключові слова: право, закон, верховенство права, верховенство закону, кримінальний закон, злочин, громадський порядок, хуліганство.

Постановка проблеми. Конституція України ще у 1996 році проголосила безпеку людини однією з найвищих соціальних цінностей в державі. Таке положення Основного Закону є свідченням правильного поступального руху Української держави в бік забезпечення всебічного розвитку людини, оскільки до кінця ХХ ст. більшість держав світу дбали лише про власну безпеку, про безпеку ж окремо взятої людини всерйоз не йшлося. Конституція України стала свідченням нормативного закріплення пріоритету прав і свобод людини над державою та суспільством. Разом з тим безпека людини є передумовою, певним предикатом всіх її прав та гарантією виконання обов'язків. З цих позицій доводиться вести мову про таке.