

Levels of Interaction between Pre-Trial Investigation Agencies

Vadym Kolomiets,

postgraduate degree seeker of the Scientific Institute of Public Law, Kyiv, Ukraine

ORCID ID:<https://orcid.org/0009-0001-9814-6619>

e-mail:

Abstract. *It has been established that international (interstate) level of interaction between pre-trial investigation agencies has various manifestations aimed at solving specific tasks. Its occurrence is due to the specificity of the committed criminal offenses and the objective necessity of involving the assistance of foreign pre-trial investigation entities in order to achieve the latter's aim.*

It has been concluded that the levels of interaction between pre-trial investigation agencies represent a kind of level of jointly agreed, regulated by legal norms activity, which is determined by: first, the legal status of the participating agency; secondly, the very task that must be solved in the process of such interaction.

It has been argued that it is expedient, while characterizing specific levels of interaction, to use different criteria for their allocation, in particular: 1) according to the coverage of state borders, we should distinguish: intraterritorial and extraterritorial levels; 2) by subject range of interaction: a) central (level of the Main Investigative Department of the National Police, the central department of the SSU, etc.); b) regional (level of regions and districts); c) interregional (interdistrict and interregional interaction); 3) in accordance with the departmental affiliation of the interaction entities: intradepartmental and inter-departmental levels.

It has been noted that the listed levels can be combined by any methods stipulated by the requirements for ensuring the effectiveness of the pre-trial investigation, for example, interregional and interdepartmental levels, international and interdepartmental, etc.

Keywords: *levels, international level, interdepartmental level, pre-trial investigation, law enforcement agencies.*

1. Introduction

Ensuring the implementation of an effective pre-trial investigation requires the activity of a number of specially authorized entities that can interact with each other. In this context, it should be noted that the essence of the interaction between pre-trial investigation entities consists of the implementation of joint, mutually coordinated actions and measures by law enforcement agencies. Those actions and measures are determined by the norms of administrative law and aimed at effective, timely, impartial and complete clarification of all the conditions and circumstances of the committed offense in order to ensure its further fair trial. At the same time, the specified interaction is a comprehensive multifaceted phenomenon, which determines the existence of different levels where it is implemented.

2. Review of the literature

The problem of interaction between pre-trial investigation agencies has repeatedly come into the field of view of various scholars. In particular, it was the focus of the research of: F.P. Adamov, M.V. Borysenko, O.M. Haborak, I.O. Kislitsyna, A.M. Lysenko, A.H. Nikulina, I.V. Potaichuk, I.A. Skichko, V.I. Teremetskyi, V.V. Topchii and many others. However, despite a significant number of theoretical achievements, there are no comprehensive scientific studies in the scientific literature focused on the characteristics of the levels of interaction between pre-trial investigation agencies.

3. Research purpose and objectives

The purpose of the article is to outline the levels of interaction between pre-trial investigation agencies. In

In order to achieve the specified purpose, the following objectives must be solved: to generalize the scientific views of scholars who highlighted the issues of interaction of pre-trial investigation agencies in their works; to carry out analysis of the current legislation (national and international), the norms of which are aimed at regulating social relations in the researched area.

4. Scientific novelty of the research

The scientific novelty of the article is the fact that theoretical approach in regard to determining and characterizing the levels of interaction between pre-trial investigation agencies was elaborated there.

5. Results

When starting scientific research, it should be noted that the highest level of interaction between pre-trial investigation agencies is international level. International cooperation in the field of combating crime in a broad sense, is, as a rule, carried out in the form of joint activities of various states in the field of legal regulation of relevant aspects of combating crime; international judicial and police agencies; specialized agencies of various states regarding the provision of professional and technical assistance in combating crime, activities related to the search and detention of persons suspected of committing crimes, their extradition, etc.; international non-governmental organizations [1, p.462].

T. Mudriak and N. Potomska characterize international cooperation during criminal proceedings as coordinated activities of two or more states represented by their competent agencies and officials, as well as international organizations, carried out on the basis of current norms of

international and domestic legislation or on the basis of reciprocity provision and receipt of legal aid, execution of certain procedural actions, temporary transfer of persons, implementation of criminal proceedings in the order of takeover, extradition of persons who have committed a criminal offense, transfer of convicted persons and execution of sentences for the purpose of prevention, detection and investigation of criminal offenses and achieving the purpose of criminal judiciary. According to the authors, these are relations between states, during which they demarcate the spheres of national law of each of the contracting states, “distribute” jurisdiction among themselves over the issues arising in the course of criminal proceedings. Procedural or investigative (search) actions to be performed must be provided by the legislation of both contracting states. Multilateral and bilateral treaties specify their list, adapting it to the legislation of the states. However, determining the scope of procedural and investigative (search) actions may also belong to the competence of the executing party in order to solve the set tasks by the requesting state [2, pp.214-215].

The international level of interaction is carried out with Ukraine’s strict compliance with international obligations arising from the content of those international regulatory legal acts, where Ukraine is the Party, for example, the European Convention on the International Validity of Criminal Judgments of 1970, etc. [3, pp.9-10]. Contracting Parties of the European Convention on Mutual Assistance in Criminal Matters of 1959 undertake to provide each other, in accordance with the provisions of this Convention, the widest possible mutual assistance within criminal prosecution of offenses, the punishment of which, at the time of the request for assistance, is under the jurisdiction of the requesting Party’s judicial power. Assistance may be refused: (a) if the request for assistance is related to an offense which, in the opinion of the requested Party, is a political offence, an offense related to a political offence, or a tax offense; (b) if the requested Party considers that granting the request may harm the sovereignty, security, public order or other essential interests of its country [4]. Besides, national legislation while regulating the interaction between pre-trial investigation agencies also pays attention to the international level of its proceedings. For example, in accordance with the Law of Ukraine “On the Bureau of Economic Security of Ukraine”, it cooperates with competent agencies of other states, international, intergovernmental organizations within the limits of its competence in accordance with the legislation of Ukraine and international treaties of Ukraine. Employees of the Bureau of Economic Security of Ukraine, in cases and in the manner determined by the Criminal Procedural Code and other laws of Ukraine, are sent to international organizations and foreign countries as competent representatives in order to ensure coordination of cooperation on issues belonging to the powers of the Bureau of Economic Security of Ukraine, and are involved into participation of international measures related to ensuring the economic security of Ukraine, as well as international measures to exchange experience [5].

The use of the Interpol information system is also normatively regulated, which is of great importance for the level of international interaction. The aims of such interaction are: “establishing the location of wanted persons for the purpose of their detention, arrest, restriction of freedom of movement and subsequent extradition; establishing the location of persons or objects of interest to law enforcement agencies of Ukraine or other Interpol Member States; providing or receiving information related to the investigation of crimes, criminal history or criminal activity of persons; providing or receiving information for the purpose of warning about persons, events, objects, methods of committing crimes that pose a real threat to public safety and order and may cause significant damage to property or citizens; identification of persons or unidentified corpses; conducting forensic investigations; providing or receiving information on issues of public safety and order; identification of threats, organized groups and criminal organizations, tendencies in the development of crime; exchange of experience in fighting against crime and law enforcement” [6].

One of the important forms of international cooperation within pre-trial investigation is the creation of joint investigative teams. The Criminal Procedural Code of Ukraine specifies that joint investigative teams may be established to conduct a pre-trial investigation into the circumstances of criminal offenses committed on the territories of several states, or if the interests of these states are violated. The Office of the Prosecutor General studies and takes decision on the issue of creating joint investigative teams at the request of the investigative agency of the pre-trial investigation of Ukraine, the prosecutor of Ukraine and competent authorities of foreign states. The members of the joint investigative team directly interact with each other, agree on the main areas of the pre-trial investigation, conduction of procedural actions, and they exchange the received information. Coordination of their activities is carried out by the initiator of the joint investigation group or one of its members. Investigative (search) and other procedural actions are performed by the members of the joint investigative team of the state, on whose territory they are conducted [7].

Thus, the international (interstate) level of interaction between pre-trial investigation agencies has various manifestations aimed at solving specific tasks. Its occurrence is due to the specificity of the committed criminal offenses and the objective necessity of involving the assistance of foreign pre-trial investigation entities in order to achieve the latter’s aim.

Another level is inter-departmental interaction, which is realized in the joint activity of pre-trial investigation agencies of different departmental affiliations. H.Yu. Bondar notes that difficulties associated with detention and investigation of particularly complex crimes, the significant amount of work in criminal cases determine the need to combine the procedural capabilities of investigators and employees of inquiry law enforcement agencies within non-procedural operative work, which is manifested in the creation of an inter-departmental investigative and operative team, which may include investigators and operatives of existing law

enforcement agencies in Ukraine [8, p. 109]. According to the Art. 39 of the Criminal Procedural Code, the head of the pre-trial investigation agency during the martial law has the right to form inter-departmental investigative teams by his reasoned resolution agreed with the heads of the relevant pre-trial investigation agencies, and to appoint a senior investigator within those teams, who will lead the actions of other investigators [7].

The relevance of the inter-departmental level of interaction has significantly increased since the full-scale invasion. Meetings are held on the organization of interaction between the pre-trial investigation agencies of the National Police and investigators of the Security Service of Ukraine. In particular, the Deputy Head of the National Police notes that each region has its own individual situation, different operative situation, circumstances that lead to the commission of war crimes: de-occupied territories, occupied and territories where hostilities go on, where the enemy strikes daily by rockets and artillery fire. Therefore, the mechanism of investigation of war crimes and coordination of actions between pre-trial investigation agencies of the Police and the Security Service cannot be uniform for everyone, but should be developed individually taking into account all the circumstances. Thus, the Deputy Head of the National Police emphasized the importance of the operation of joint working teams of investigators of the National Police of Ukraine and the Security service of Ukraine in the process of investigating crimes committed by Russia and developing algorithms for joint actions for responding, recording, investigating war crimes, collecting evidence at the crime scenes, based on the combat situation in a specific region [9]. For example, a specially created inter-departmental and inter-regional team of investigators of the Security Service of Ukraine and the National Police is currently working on the investigation of the fact of undermining the Kakhovska HEPP. As part of the pre-trial investigation, law enforcement officers together with prosecutors verify all leads of events in order to establish the circumstances of the committed crime and the guilty persons [10].

I.A. Skichko also notes that inter-departmental interaction is one of the most effective types of interaction in the pre-trial investigation of collaboration, since relevant crimes are not always detected by specialized pre-trial investigation agencies, therefore the initial stage and the implementation of priority investigative (search) actions are carried out, for example, by investigators of the National Police, and further on such materials are handed over to the security agencies. The perspective of further research of interaction within the pre-trial investigation of collaboration is the need for a deeper study of theoretical foundations and empirical material, as well as practical materials on communication in the pre-trial investigation of collaboration [11, p.161]. Thus, the spheres of inter-departmental level of interaction have a wide application in regard to joint pre-trial investigation of a wide range of criminal offenses.

Issues of intradepartmental interaction are within the plane of business relations between different entities of the

same department [1, p.462]. The Instruction on the organization of interaction of pre-trial investigation agencies with other agencies and units of the National Police of Ukraine should be admitted as a bright example of proper legal regulation of intradepartmental interaction between pre-trial investigation entities. According to the indicated Instruction, a quick and complete investigation and detection of criminal offenses is achieved by combining the efforts of all police agencies and units, ensuring the appropriate level of their interaction in accordance with the requirements of the law in regard to obtaining, collecting, accumulating and using information about persons who have committed criminal offenses, as well as about events and facts that can contribute to their investigation and detection, which is an integral task for all police officers. The direct organization of work on collecting information about persons who have committed criminal offenses, as well as about events and facts that can contribute to their investigation and detection, and control over the verification of the specified information is carried out by the head of the police agency, unit [12].

O.V. Pchelina rightly emphasizes that departmental (intradepartmental) interaction can be implemented both in procedural and in non-procedural (organizational) forms. The content and objectives of such an interaction are determined by the general principles and tasks of the interaction of pre-trial investigation agencies with other agencies and units of the National Police of Ukraine for the prevention of criminal offenses, their detection and investigation, as well as the functions performed by the interaction's entities [13, p.110]. The essence of the interaction's intradepartmental level is the accumulation of reserves of various entities of pre-trial investigation within one department.

6. Conclusions

Thus, the conducted scientific research makes it possible to come to the conclusion that the levels of interaction between pre-trial investigation agencies represent a kind of level of jointly agreed, regulated by legal norms activity, which is determined by: first, the legal status of the participating agency; secondly, the very task that must be solved in the process of such interaction. While characterizing specific levels of interaction, it is advisable to use different criteria for their allocation, in particular:

- 1) according to the coverage of the state borders, we should distinguish: intra-territorial and extra-territorial levels;
- 2) by the subject range of interaction: a) central (level of the Main Investigative Department of the National Police, the central department of the SSU, etc.); b) regional (level of regions and districts); c) inter-regional (inter-district and inter-regional interaction);
- 3) according to departmental affiliation of interaction entities: intradepartmental and inter-departmental levels.

It is worth noting that the listed levels can be combined in any method determined by the requirements of ensuring the effectiveness of the pre-trial investigation, for example, interregional and interdepartmental levels, international and interdepartmental levels, etc.

References

1. Stepaniuk R.L., Zaiats D.D. Interaction during pre-trial investigation of economic crimes. *Forum prava*. 2014. No. 1. Pp. 460-465. URL: <https://cope.ac.uk/download/pdf/187223279.pdf>
2. Mudriak T., Potomska N. International cooperation in the criminalistic support of crimes investigation. *Law Herald*. 2014. No. 6. Pp. 211-216.
3. Organization of interaction between the divisions of the National Police during the pre-trial investigation: training manual / O. P. Boiko, O. F. Kobzar, V. V. Rohalska, N. P. Cherniak. Dnipro: DDUVS, 2017. 84 p.
4. European Convention on Mutual Assistance in Criminal Matters dated from April 20, 1959. URL: http://zakon.rada.gov.ua/laws/show/995_036#Text
5. On the Bureau of Economic Security of Ukraine. Law of Ukraine dated from January 28, 2021. No. 1150-IX. URL: <https://zakon.rada.gov.ua/laws/show/1150-20/conv#n541>
6. On the approval of the Instructions on the procedure of using the information system of the International Criminal Police Organization – Interpol by law enforcement agencies of Ukraine. Order of the Ministry of Internal Affairs of Ukraine, the Office of the Prosecutor General, the National Anti-Corruption Bureau of Ukraine, the Security Service of Ukraine, the State Bureau of Investigation, the Ministry of Finance of Ukraine, the Ministry of Justice of Ukraine dated from August 17, 2020 No. 613/380/93/228/414/510/2801/5. URL: <http://zakon.rada.gov.ua/laws/show/z0849-20#Text>
7. Criminal Procedural Code of Ukraine dated from April 13, 2012. No. 4651-VI. URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text>
8. Bondar H. Yu. Interdepartmental investigative and operative team: its composition and procedure of creation. *Bulletin of the National University of Internal Affairs*. 2004. Issue 26. Pp. 109-115.
9. Investigators of the National Police and the Security Service of Ukraine heard the progress of the investigation of war crimes of the Russian Federation. URL: <https://mvs.gov.ua/uk/news/slidci-nacpolitsiyi-ta-sbu-zasluxali-xid-rozsliduvannua-vojennix-zlociniv-rf>
10. The Police and the Security Service of Ukraine are investigating the explosion of the Kakhovska HEPP. URL: <https://www.ukrinform.ua/rubris-cociety/3719574-ridriv-kahovskoi-gec-rozsliduut-polisia-ta-sbu-pracuut-10-opergrup.html>
11. Skichko I. A. Interaction in the pre-judicial investigation of collaborative activities: theoretical and legal aspect. *Law and Public Administration*. No. 4. 2022. P. 158-162
12. On the approval of the Instructions on the organization of interaction between pretrial investigation agencies with other agencies and units of the National Police of Ukraine in the prevention of criminal offenses, their detection and investigation. Order of the Ministry of Internal Affairs of Ukraine dated from July 7, 2017 No. 575. URL: <https://zakon.rada.gov.ua/laws/show/z0937-17#Text>
13. Pchelina O. V. Interaction between investigators and forensic inspectors during the pre-trial investigation of criminal offenses. *Juris Europensis Scientia*. Vol. 1. 2020. Pp. 107-111.