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DOI <https://doi.org/10.32782/apdp.v100.2023.2>*O. V. Batiuk, V. T. Olenchenko*

**ON UNDERSTANDING THE FORENSIC SUPPORT  
OF THE INVESTIGATION OF OFFENCES AGAINST THE FOUNDATIONS  
OF NATIONAL SECURITY**

**Statement of the problem in general and its connection with important scientific or practical tasks.** Decree of the President of Ukraine of 14 September 2020 No. 392/2020 approved the National Security Strategy of Ukraine «Human security – country security», which states that low levels of well-being create despondency and uncertainty about the future, provoke violence, which hinders development and preserves backwardness. Particularly dangerous is the entrenchment of radical social attitudes and environments that form the basis for political violence and separatism, the activities of illegal armed groups, and the spread of terrorism. Crime threatens the rights and freedoms, legitimate interests of individuals, society and the state. Paragraph 63. The development of the security and defence sector is necessary for the systemic protection of Ukraine from threats to national security. For this purpose, Ukraine will: ensure the systematic reform of the National Police of Ukraine, strengthen the criminal police and pre-trial investigation bodies, in particular in the fight against organised and transnational crime [1, p. 30].

It is reasonable to agree with Professors Shepitko Y., Konovalova V., Zhuravel V. that forensics is a science that is truly at the forefront of the fight against crime. It is forensic science that, on the basis of its scientific research and development, offers detectives, investigators, experts, judges scientifically based and practice-proven means, techniques and methods of crime detection, investigation and trial of criminal cases [2, p. 5].

The general task of the forensic science is to ensure the quick and complete detection of crimes, exposure of perpetrators, prevention and suppression of all criminal offences. The fight against crime is the main task of all sciences of the criminal cycle.

According to V. Shepitko, the current state of forensic science cannot be limited to the tasks that were set for its solution in the last century. The tasks of forensic science in modern conditions are conditioned by the need for systematic forensic support of the relevant law enforcement agencies, aimed at optimising the process of investigating crimes, establishing the truth in the case, and restoring justice [3, p. 58].

We agree with the opinions of Ukrainian forensic scientists that the tasks of the science of forensic science in modern conditions are due to the need for systematic forensic support of the process of investigating crimes in general and crimes against the foundations of national security of Ukraine in particular.

**Analysis of recent research and publications which have initiated the solution to this problem, and identification of previously unresolved parts of the general problem.** Topical issues of forensic support for the investigation of crimes have been

the subject of scientific research by such Ukrainian criminalists as V. Bakhin, I. Hora, V. Zhuravel, A. Ishchenko, V. Konovalova, V. Kolesnyk, V. Lysenko, E. Lukianchyk, O. Taran, P. Tsymbal, K. Chaplynskyi, S. Cherniavskyi, Y. Chornous, V. Shepitko, B. Shchur. However, it is worth noting that only certain issues of forensic support for the investigation of crimes against the foundations of national security have been studied by such Ukrainian forensic scientists as Gora I. [4], Kolesnyk V. [5], Sokurenko V. [6,8], Khodanovych V. [7], which is why we believe it is advisable to pay more attention to the study of forensic support for the investigation of crimes against the foundations of national security.

The emergence of the concept of forensic support, in our opinion, was caused by the urgent needs of the practice of combating crime, the introduction and application in the practical activities of law enforcement agencies of forensic methods, techniques and means of detection, collection, research and use of information relevant to the detection and investigation of crimes during the war with Russia, which has been going on in Ukraine since 2014 since the beginning of the de-occupation of Donetsk and Luhansk regions and the Autonomous Republic of Crimea and the city of Sevastopol.

It is worth agreeing with Professor Sokurenko that the de-occupied territory is an extremely dangerous zone. Because of this, investigative teams have to operate in conditions of increased risk: the presence of explosive objects; threats of shelling and destruction of buildings; damage to energy networks. Therefore, one of the stages of preparation for inspections, searches, investigative experiments and other investigative (detective) actions is the involvement of sappers and explosive experts to inspect and demine the territory.

Given the specifics of the investigation of such crimes, investigative (search) actions may also involve ballisticians, weapons experts, experts in missile and aircraft technology, artillerymen, and mechanics. In addition, in the de-occupied territories, the investigator has to exhume corpses and/or their parts. The participation of a forensic expert is mandatory (Article 239 of the CPC of Ukraine) [6, p. 19–20].

**Formulation of the purpose and objectives of the study.** The purpose of this article is to make an etymological study of the concept of forensic support, which will help to formulate the author's own definition of forensic support for the investigation of crimes against the foundations of national security.

**Presentation of the main material.** In the Ukrainian Dictionary of Interpretation, the term «support» is interpreted as the provision or creation of material means; guaranteeing something [9, p. 684]. We agree with the position of those scholars who believe that the analysis of the synonymous range of words related to the term «support» convinces of the validity of the verbal construction «support – guarantee – provision – equipment – maintenance – supply». These words do not have the same meaning, but in each case of use in the context they have a fairly close semantic meaning [10, p. 8].

We consider it expedient to refer to the definitions of provision given by leading Ukrainian criminalists. Thus, E.D. Lukianchykov, considering the term «support» in relation to the activities of crime investigation, notes that in statics it can be defined as a set of means, tools that serve to solve certain problems, as well as conditions that

facilitate the process of their solution, and in dynamics – as the process of creating and providing the above means and conditions [11, p. 11].

Based on the commonly used meaning of the words, it is possible to formulate the concept of «forensic support» as «supply» of forensic knowledge to officials involved in the investigation of crimes. This concept should be considered not as a material support of forensic recommendations and tools, but as a process of their development and provision to these persons [12, p. 259].

Lysenko V. notes that the forensic support of law enforcement agencies in detecting and investigating crimes is a certain system consisting of the following elements: a block of forensic recommendations (both organisational, tactical and methodological); a block of training of relevant personnel (special forensic education); a block of technical and information support for the process of detection, investigation and prevention of crimes [13, p. 11].

In her monograph «Theory and practice of forensic support of pre-trial investigation in cases of international crimes», Chornous Y. noted that forensic support is a support that, based on a literal interpretation, is derived from the science of forensic science and consists primarily in the involvement of forensic recommendations in the investigation of crimes [14, p. 22]. We agree with Professor Chornous Y. who characterised forensic support from a theoretical and practical point of view. She notes that from the theoretical point of view it can be characterised as an independent scientific category, and from the practical point of view – as an activity that consists in creating conditions for the readiness and implementation of methods, means, techniques of forensic technology, forensic tactics and forensic methodology based on the principles of the general theory of forensic science and aimed at investigating crimes [14, p. 30].

We believe that forensic support is, first of all, a system that has interrelated elements in its structure, each of which can be considered separately, and only their combination will form forensic support as an effective and integral mechanism for the detection, investigation and prevention of crimes. However, over time, the ideas and provisions of forensic support for the investigation of crimes have been recognised and further developed in the scientific research and works of forensic scientists, while defining the category in question not only for all forensic activities, but also for its individual areas [15, p. 224].

In our opinion, the essence of forensic support for the investigation of crimes against the foundations of national security is to provide law enforcement agencies and units of the security and defence forces that professionally fight crime in general and in the de-occupied territories in particular with scientific achievements in digital forensics and practical skills in its adoption and use, which contributes to the efficiency of solving problems to identify traces of such crimes as treason, collaboration, sabotage, espionage, obstruction of the lawful activities of the Armed Forces of Ukraine and other military units, aiding the aggressor state, actions aimed at violent change or overthrow of the constitutional order or seizure of state power, encroachment on the territorial integrity and inviolability of Ukraine, financing actions committed with the aim of violent change or overthrow of the constitutional order or seizure of state power, changing the boundaries of the territory or state border of Ukraine, encroach-

ment on the life of a state or public figure, unauthorised dissemination of information on the sending, movement of weapons, armaments and ammunition to Ukraine, movement, relocation or deployment of the Armed Forces of Ukraine or other military units formed in accordance with the laws of Ukraine, committed in conditions of martial law or a state of emergency.

We believe that the possibilities of digital forensics will help in the process of investigating crimes against the foundations of national security to improve the process of collecting, obtaining, storing, analysing and submitting electronic evidence (also known as digital evidence) in order to obtain operational and investigative information and to investigate and prosecute persons who commit acts that qualify as treason, collaboration, sabotage, espionage, obstruction of the lawful activities of the Armed Forces of Ukraine and other military units, aiding the aggressor state, actions aimed at violent change or overthrow of the constitutional order or seizure of state power, encroachment on the territorial integrity and inviolability of Ukraine, financing actions committed with the aim of violent change or overthrow of the constitutional order or seizure of state power, changing the boundaries of the territory or state border of Ukraine, attempts on the life of a state or public figure, unauthorised dissemination of information on the sending, movement of weapons, armaments and ammunition to Ukraine, Movement, relocation or deployment of the Armed Forces of Ukraine or other military units formed in accordance with the laws of Ukraine, committed under martial law or a state of emergency.

We are convinced that in the modern information world, it is the possibilities of digital forensics that are aimed at establishing the process of using information and communication technologies (ICT) by a person who leaves digital traces. In particular, a person using ICT may leave «digital fingerprints». The data left by ICT users can reveal information about them, including information about their age, gender, race and ethnicity, citizenship, sexual orientation, opinions, preferences, habits, hobbies, medical history and health problems, psychological disorders, status, employment, membership of any community, personal relationships, geolocation, daily routine and other activities. These digital fingerprints can be active or passive. An active digital fingerprint is created by data provided by the user, such as personal data, videos, images and comments posted in applications, websites, electronic bulletin boards, social media and other online forums.

In our opinion, digital forensics as a component of the system of forensic support for the investigation of crimes against the foundations of national security includes the processes of identification, acquisition, storage, analysis and presentation of digital evidence. Digital evidence must be authenticated to ensure its admissibility in court. Ultimately, the artefacts for forensic analysis and the forensic techniques used (e.g., static or real-time data collection) depend on the device, its operating system, and its security features. Proprietary operating systems (with which investigators may be unfamiliar) and security features (e.g. encryption) are obstacles to digital forensics. For example, encryption that blocks third parties from accessing user information and communications can prevent law enforcement from accessing data contained in digital devices such as smartphones [16, p. 180].

We agree with Udovenko Zh. who believes that forensic support is an independent, effective, specific activity of the relevant entities to create the necessary conditions for obtaining forensic knowledge through forensic education and the use of forensic techniques in the statutory activities of the subjects of the process of proof in the pre-trial investigation to collect, research, verify and evaluate factual data (evidence) and use them to establish the truth in a criminal case. In other words, this is an independent, specific activity of the relevant subjects to create the necessary conditions for optimising the process of proof in the pre-trial investigation [17, p. 113].

In our opinion, it is not advisable to reduce forensic support only to knowledge and skills, without paying attention to some important circumstances, such as: forensic knowledge and skills do not arise by themselves, they are formed in the course of certain activities (scientific, educational); such knowledge and skills are implemented again in the activities of solving and investigating crimes; forensic means, methods and technologies can be used only when they are developed and implemented in practice. In the practice of fighting crime, their results are implemented, practice determines their content (goals, objectives, forms), based on its daily needs.

It is worth agreeing with S. Denysiuk that the main problems of defining the concept of forensic support include: overly broad and abstract content of the generic concept; broken logic of definition; substitution of some parts of forensic tactics and techniques, scientific organisation of work, criminal procedure, theory of operational and investigative activities by forensic support; focus on certain areas without defining the main definition; theoretical and abstract nature [18, p. 284].

In our opinion, the investigation of crimes against the foundations of national security has its own specifics, which consists in identifying and establishing, first of all, the determinants of such crimes as treason, collaborative activity, sabotage, espionage, obstruction of the lawful activities of the Armed Forces of Ukraine and other military units, aiding the aggressor state, actions aimed at violent change or overthrow of the constitutional order or seizure of state power, encroachment on the territorial integrity and inviolability of Ukraine, financing of actions committed with the aim of violent change or overthrow of the constitutional order or seizure of state power, change of the boundaries of the territory or state border of Ukraine, attempts on the life of a state or public figure, unauthorised dissemination of information on the sending, movement of weapons, armaments and ammunition to Ukraine, movement, relocation or deployment of the Armed Forces of Ukraine or other military units established in accordance with the laws of Ukraine, committed in a state of war or emergency.

We believe that the investigation of crimes committed against the foundations of national security should take into account the negative and positive circumstances specific to the martial law regime that affect the preparation and conduct of investigative actions in these institutions. We mean the presence of explosive objects, threats of shelling and destruction of buildings, damage to energy networks. In particular, the specifics of preparing and conducting investigative actions during martial law are often limited to specifying the content of general organisational rules and tactics recommended by the provisions of forensic tactics, taking into account various investigative situations.

**As a conclusion**, it should be noted that the forensic support of the investigation of crimes against the foundations of national security should be understood as a system of interrelated and interdependent elements which in its structure contains such elements as: scientific and methodological support of the investigation of crimes against the foundations of national security; forensic education; digital forensics; technical and forensic support of the investigation of crimes against the foundations of national security; tactical and forensic support of the investigation of crimes against the foundations of national security; development of specific methods of investigation of crimes against the foundations of national security; expert forensic support for the investigation of crimes against the foundations of national security; preventive and forensic support for the investigation of crimes against the foundations of national security.

It should be noted that the current technical, forensic and organisational support for the investigation of crimes against the foundations of national security is insufficient at the present stage and requires urgent improvement, namely: the use of digital forensics knowledge, specially equipped premises, forms of procedural documents, dictaphones, unified forensic suitcases, mini-photolabs and video equipment, multiplying devices (photocopiers, scanners), as well as the introduction of scientific and technological advances for evidence collection (through systems of forensic recommendations) is one of the main ways to improve investigative tactics. However, not all scientific achievements can be recommended for use in the investigation, but only those that meet the requirements of the criminal procedure law and, above all, ensure the rights, freedoms and interests of a person guaranteed by the Constitution of Ukraine.

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## Summary

**Batiuk O. V., Olenchenko V. T. On understanding the forensic support of the investigation of offences against the foundations of national security.** – Article.

In the provisions of the scientific article, the authors reveal the understanding of forensic support for the investigation of crimes against the foundations of national security through the research of theoretical views of criminalists on the understanding of forensic support in general and the disclosure of the essence of digital forensics capabilities as a component of the system of interrelated and interdependent elements of forensic support for the investigation of crimes against the foundations of national security. The authors of the article conclude that the current technical, forensic and organisational support for the investigation of crimes against the foundations of national security is insufficient at the present stage and requires urgent improvement, namely: the use of digital forensics knowledge, specially equipped premises, forms of procedural documents, dictaphones, unified forensic suitcases, mini-photo labs and video equipment, duplicating facilities (photocopiers, scanners), as well as the introduction of scientific and technological advances for evidence collection (through systems of forensic recommendations) is one of the main ways to improve the tactics of investigative actions. However, not all scientific achievements may be recommended for use in the investigation, but only those that meet the requirements of the criminal procedure law and, above all, ensure the rights, freedoms and interests of a person guaranteed by the Constitution of Ukraine.

It is argued that forensic support for the investigation of crimes against the foundations of national security should be understood as a system of interrelated and interdependent elements which in its structure contains such elements as: scientific and methodological support for the investigation of crimes against the foundations of national security; forensic education; digital forensics; technical and forensic support for the investigation of crimes against the foundations of national security; tactical and forensic support for the investigation of crimes against the foundations of national security; development of individual methods of investigating crimes investigation of crimes against the foundations of national security; expert and forensic support for the investigation of crimes against the foundations of national security; preventive and forensic support for the investigation of crimes against the foundations of national security.

*Key words:* state, security, espionage, treason, sabotage, collaborative activity, digital forensics.

### Анотація

**Батюк О. В., Оленченко В. Т.** Щодо розуміння криміналістичного забезпечення розслідування злочинів проти основ національної безпеки. – Стаття.

У положеннях наукової статті автори розкривають розуміння криміналістичного забезпечення розслідування злочинів проти основ національної безпеки через дослідження теоретичних поглядів вчених криміналістів про розуміння криміналістичного забезпечення загалом та розкриття суті можливостей цифрової криміналістики як складової системи взаємопов'язаних та взаємообумовлених елементів криміналістичного забезпечення розслідування злочинів проти основ національної безпеки. Автори статті роблять висновки, що сучасне техніко-криміналістичне і оргтехнічне забезпечення розслідування злочинів проти основ національної безпеки на сучасному етапі є недостатнім і потребує термінового покращення: а саме використання знань цифрової криміналістики, спеціалізовано обладнаних приміщень, бланків процесуальних документів, диктофонів, уніфікованих криміналістичних валіз, мініфотолaboratorій і відеоапаратури, розмножувальних засобів (ксероксів, сканерів), а також впровадження досягнень науки і техніки для збору доказів (через системи криміналістичних рекомендацій) є одним із основних шляхів вдосконалення тактики слідчих дій. Проте для використання при розслідуванні можуть бути рекомендовані не будь-які досягнення науки, а лише ті з них, що відповідають вимогам кримінально-процесуального закону і, насамперед, забезпечують права, свободи та інтереси особи, гарантованих Конституцією України.

Висловлюють твердження, що під криміналістичним забезпеченням розслідування злочинів проти основ національної безпеки потрібно розуміти систему взаємопов'язаних та взаємообумовлених елементів, таких як наукове і методичне забезпечення розслідування злочинів проти основ національної безпеки; криміналістичну освіту; цифрову криміналістику; техніко-криміналістичне забезпечення розслідування злочинів проти основ національної безпеки; тактико-криміналістичне забезпечення розслідування злочинів проти основ національної безпеки; розробка окремих методик розслідування злочинів розслідування злочинів проти основ національної безпеки; експертно-криміналістичне забезпечення розслідування злочинів проти основ національної безпеки; профілактико-криміналістичне забезпечення розслідування злочинів проти основ національної безпеки.

*Ключові слова:* держава, безпека, шпигунство, державна зрада, диверсія, колобораційна діяльність, цифрова криміналістика.