

UDC 34**Verification activities conducted at the stage of initiation of criminal proceeding for illegal organization and conduct of gambling****Veronika A. Kovalenko**

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Abstract

The article examines some aspects of documentation of crimes in the sphere of illegal organization and conduct of gambling. A typical situation of committing a crime under article 171.2 of the Criminal Code of the Russian Federation is considered. The author pays attention to the actions of law enforcement officers aimed at documenting and investigating crimes of this nature and considers the position associated with collection of the original material at the stage of investigating the reports of crime according to article 171.2 of the Criminal Code. The author gives recommendations on fixing of the circumstances which are subject to proof by means of fixing the data received from other state bodies in materials of pre-investigation check and materials of criminal case (after initiation of criminal case). Attention is drawn to the need to withdraw documents confining the right of the head of the relevant legal entity to carry out certain actions in the management of the organization. The article discusses in detail the issues related to the legal framework of the documents defining the list of works and services subject to mandatory licensing. The final part of the article provides a number of recommendations to improve the quality of the preliminary investigation under article 171.2 of the Criminal Code, while noting a number of measures aimed at more effective consolidation of traces of crimes.

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Keywords

Illegal organization and conduct of gambling, services, works, investigation, licensing, legal entity, documentation.

Introduction

The initiation of criminal proceedings is a cornerstone act, which largely determines the further order of pre-trial activities. The weak concretization of legislative norms, the abundance of destructive indications of how they should be interpreted, significantly complicate the process of realization of the right, "blur" the uniformity of the practice of criminal procedure legislation, which leads to judicial and investigative errors [Alekseev, 2014, 67-70].

The article 144 of the Federal Law No. 23-F3 of March 4, 2013 of the Criminal Procedure Code of the Russian Federation specifies some issues: what verification actions can be performed in the process of checking the report of a crime, in which cases it is possible to extend the period of verification, etc.

It is necessary to find out what the verification actions are, which practical and theoretical problems surround them.

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Analysis of regulatory material shows that the concept of verification is not legislative. However, the legislator has a direct bearing on it, since it clearly indicates that the information received by the competent authority is subject to thorough verification. And this check, as follows from article 144 of the Code of Criminal Procedure, is not covered by the discretion of the competent persons, and is their responsibility. According to part 1 of Article 144 of the Code of Criminal Procedure, "the investigator, the body of inquiry, the investigator and the head of the investigative body are obliged to accept, verify the report of any committed or impending crime and within the competence established by the code of criminal procedure, to take a decision on it no later than 3 days from the date of receipt of the Also in article it is noted that "according to the message on the crime extended in mass media, the inspection is carried out by order of the Prosecutor by body of inquiry, and also on behalf of the head of investigative body the investigator".

In this context, the term "verification" is also key in departmental regulations.

As L.V. Berezina points out that "preliminary inspection is an activity regulated by the criminal procedure law, implemented by the body of inquiry, the investigator, the investigator in the initial stage of the process and aimed at collecting, checking and evaluating evidence in order to establish the presence or absence of a reason and grounds for initiating a criminal case, as well as making a legal and reasonable decision on each received report on the committed or impending crime" [Alekseev, 2017, 56-60].

This approach is reflected in other departmental regulations. In accordance with clause 82.1 "statement of offence" in time to... to conduct an audit in accordance with article 144-145 of the Criminal Procedure Code" [Lozovsky, 2014, 201-204].

However, this purely procedural approach to verification actions is not the only one. The Investigative Committee of the Russian Federation in the departmental order gives wider definition of check: check of the message on a crime is the procedural and other actions made by the authorized official as article 144 of the Criminal Procedure Code according to the message on a crime for the purpose of establishment of existence or lack of the sufficient data indicating signs of a crime" [Lozovsky, 2015, 194-196].

On the measures taken to report a crime, and their results, the investigator must constantly inform the head of the investigative body of the RF IC or his Deputy to determine the need for additional

organizational measures (for example, personal arrival to the scene and participation in its inspection; attraction of additional forces and means, including for the disclosure of the crime in "hot pursuit", etc.). Now, based on the above orders, we will try to create a collective image of the departmental understanding of the system of verification actions [Lozovsky, 2009, 256-258]:

- 1) actions connected with departure on a scene;
- 2) taking measures to ensure the safety of traces; the use of film and video recording;
- 3) receipt of explanations;
- 4) presentation of requirements, orders, requests to institutions, enterprises, organizations, regardless of ownership, officials and citizens; reclamation and study of the necessary documents and materials;
- 5) carrying out operational-search actions, including actions for establishment and detention in the act or "in hot pursuit" of the persons preparing, committing or committed a crime;
- 6) appointment of documentary audits or audits;
- 7) requirement to provide documents and materials available to the media confirming information about the crime, as well as data on the person who provided the said information, except in cases where that person has set a condition for the preservation of the source of information in secret;
- 8) actions to prevent and suppress crime;
- 9) manufacture of separate investigatory actions on fastening of the traces of the crime and the identity of the person committing the act stipulated by the code of criminal procedure.
- 10) other verification actions.

Assessing the listed actions, it can be concluded that the system of verification actions includes both actions directly aimed at the study of primary information containing data on the signs of a crime, and actions that have an indirect cognitive nature (for example, actions aimed at suppressing a crime). It is also noteworthy that the system of verification actions is not a closed system. Almost all administrative acts finish their lists checking operations by reference to "additional or other verification activities". Individual orders give instructions where to look for these other actions. For example, the Order of the Ministry of the Russian Federation for Civil Defense, Emergencies and Elimination of Consequences of Natural Disasters No. 270 of May 2, 2006 very clearly states: «...other actions provided by the Federal Law "On fire safety"» [Order of the Ministry of the Russian Federation..., 2007]. We believe that other law enforcement agencies should make maximum use of their non-procedural competence to expand the range of verification activities [Semenov, Vlasov, 2017, 51-57].

Conclusion

Thus, we conclude that the main requirement for verification actions: they must be legal, but legal in the broad sense of the word, i.e. rely on the code of criminal procedure and other laws. This will allow subsequent positive solution to the question of the admissibility of the results thereof as evidence [Shaidullina, 2016, 63-65]. The author proceeds from the fact that the requirement of admissibility of the results of verification actions should be based on the article 50 of the Constitution of the Russian Federation: "In the administration of justice is not allowed the use of evidence obtained in violation of Federal law" [Complex application of special knowledge..., 2017, 65-72].

The initiation of criminal proceedings as a stage of criminal proceedings was established in order to protect the individual from arbitrariness and lawlessness, to respond quickly to information containing data on the signs of a crime, to record these data, to create conditions for preliminary investigation. It is necessary to establish the basis for initiation of criminal proceedings by means of

verification, but not investigative actions containing elements of procedural coercion [Nikolaev, 2017, 121-123].

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Проверочные мероприятия, проводимые на стадии возбуждения уголовного дела по факту незаконной организации и проведения азартных игр

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Аннотация

В статье рассматриваются некоторые вопросы документирования преступлений в сфере незаконной организации и проведения азартных игр. Автор описывает действия сотрудников правоохранительных органов, направленные на документирование и расследование преступлений такого характера. Рассматриваются положения, связанные со сбором оригинального материала на этапе проверки сообщения о преступлении. Автор дает рекомендации по установлению обстоятельств, подлежащих доказыванию, путем закрепления в материалах доследственной проверки и материалах уголовного дела (после возбуждения уголовного дела) сведений, полученных от других государственных органов. Обращается внимание на необходимость изъятия документов, ограничивающих право руководителя соответствующей организации осуществлять определенные действия по

управлению данной организацией. Подробно рассматриваются вопросы, связанные с содержанием документов, определяющих перечень работ и услуг, подлежащих обязательному лицензированию. В заключительной части статьи приводится ряд рекомендаций по повышению качества предварительного следствия по статье 171.2 Уголовного кодекса Российской Федерации, при этом предлагается ряд мер, направленных на более эффективное закрепление следов преступлений.

Для цитирования в научных исследованиях

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Ключевые слова

Незаконные организация и проведение азартных игр, услуги, работы, расследование, лицензирование, юридическое лицо, документация.

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