

## SECTION XVI. LAW

DOI 10.36074/21.08.2020.v2.47

### FUNCTIONAL APPOINTMENT OF TACTICAL OPERATIONS OF INVESTIGATION OF UNAUTHORIZED OCCUPATION OF LAND AND UNAUTHORIZED CONSTRUCTION

Hryshko I.

PhD student of the Department of Criminalistics of  
Yaroslav Mudryi National Law University

UKRAINE

**Abstract.** *The article is devoted to the study of the functional appointment of tactical operations in the investigation of unauthorized occupation of land and unauthorized construction. It's proposed to consider the functional appointment of tactical operations in the investigation of this crime as a set of interrelated functions, as the functions of tactical operations should be understood as a system of properties that reflect and determine the role and purpose of this tactical tool to optimize the process of pre-trial investigation and solve tactical tasks in relation to certain investigative situations. The analysis of scientific approaches to problems of definition of functions of tactical operations is carried out, the author's vision of this problem is expressed. It is proposed to consider the functional appointment of tactical operations in the investigation of unauthorized occupation of land and unauthorized construction as a reflection of these tactical means through the system of properties, as a reliable means of organization, optimization, efficiency of investigation, to influence the investigative situation tactical tasks of this crime. Perspective directions of further researches of the specified problems are defined.*

**Introduction.** The ability of tactical operations to penetrate deeply into the criminalistic nature of criminal manifestations and adapt to the conditions of various investigative situations [1, p. 116], contributes to the expansion of their practical use by investigators as the most optimal means of implementing methods of pre-trial investigation. However, the creation (development) and proposals for the use of new tactical operations are caused by the modernization of crime [2, p. 174] and impossible without understanding the functional appointment of this tactical tool in the context of criminalistic methods of investigating a specific crime, namely the unauthorized occupation of land and unauthorized construction.

First of all, for this awareness it is necessary to have a clear notion that a tactical operation is a functional system that is focused on achieving a specific goal and is designed to perform certain functions [3, p. 27], which indicates its direction to effectively solve certain tactical tasks due to investigative situations arising from unauthorized occupation of land and unauthorized construction. This once again proves that tactical operations are important tools because of their functional focus, as the process of investigating crimes in the field of land relations, which include unauthorized occupation of land and unauthorized construction, is characterized by increased complexity [4, p. 151]. Thus, today, among the studies of theoretical and

practical problems of investigation of unauthorized occupation of land and unauthorized construction, it is of some scientific interest to clarify the functional appointment of tactical operations in the investigation of this crime.

Moreover, the issue of the functional appointment of tactical operations in the investigation of unauthorized occupation of land and unauthorized construction, in criminalistic doctrine and investigative practice is relevant and significant, because in today's conditions, remains undeveloped. It should be noted that being a reflection of the real process of functioning of tactical operations, the functional appointment, as a rule, is reflected in the functions of this tactical means of investigation. This is quite obvious, because the functions of tactical operations express its essence – the deepest and most established in it. In addition, the functions of tactical operations characterize the purpose of this tactical tool, determine the nature and its features as an independent type of practical cognitive-search activities. At the same time, the coverage of the functional appointment of tactical operations through a list of a narrow range of their functions or functional properties, without deep theoretical development, does not give a complete picture of the correct understanding of the nature of the functions of tactical operations in investigative activities [5, p. 161].

**Results and discussions.** The study of the multifaceted functions of tactical operations is the most promising area for developing the concept of these tactical tools in criminalistics [6, p. 45]. However, the unification of views on the functions of tactical operations, the formation of their system makes it possible to correctly determine the direction and content of all further research [7, p. 9]. Therefore, given the above, the priority of research is to clarify the scope of tactical operations, determine the manifestation of their properties, in other words, the functional appointment in the context of the investigation of unauthorized occupation of land and unauthorized construction.

In the special criminalistic literature it is noted that tactical operations from the standpoint of functional appointment, scientists consider as: 1) a means of implementing methods of investigation; 2) the most rational form of use of forces and means of law enforcement agencies; 3) organizational and tactical means of eliminating resistance from offenders; 4) not only the tool, but also the procedure for solving a specific tactical task; 5) a means of ensuring the most effective results in the collection of evidence and their operation, etc. [8, p. 25]. These provisions, in our opinion, are not exhaustive ways of knowing the functional appointment of tactical operations, because an in-depth understanding of the latter seems possible even through the study of their functions.

Thus, this is quite appropriate, because the functions of tactical operations should be understood as a system of properties that reflect and determine the role and appointment of this tactical tool to optimize the process of pre-trial investigation and tactical (intermediate) tasks for certain investigative situations in particular [9, p. 129]. In this aspect, V.Yu. Shepitko, considering the functions of tactical techniques, he noted that the study of the functional appointment of this tactical tool requires consideration of the specifics of general and individual functions [10, p. 64]. Based on the above, one of the urgent tasks of theoretical development of the problems of functional appointment is to study the functions of tactical operations.

However, in the theory of criminalistics there are different views on the separation of the functions of this tactical means of investigation. According to I.M. Komarov, criminalistic operations perform informational, cognitive, constructive, organizational and regulatory functions [11, p. 88]. In particular, V.Yu. Shepitko points out that tactical operations are divided into cognitive, search and organizational [12, p. 41– 44]. In our opinion, these functions of tactical operations

reflect a fairly extensive system of properties of this tactical tool of investigation and reflect the main activities in the implementation of tactical operations.

In addition, the division of the function of tactical operations into internal and external is of some scientific interest [6, p. 17–22]. Considering the internal functions, it should be noted that they regulate the processes occurring within the construction of tactical operations. Varieties of internal functions of tactical operations may be such as: 1) coordinational; 2) subordinational; 3) regulatorial; 4) optimiziniial; 5) purposeful. In turn, external functions provide the external results of the tactical operation, the impact on the investigative situation in order to change for the better, or a solution in general. These functions have a fairly extensive system of classification bases, among which are: 1) the degree of generalization (general, individual); 2) the volume of functions (basic, additional); 3) the composition of functions (simple, complex); 4) the content of functions (target, role), etc. [9, p. 131–134].

Despite the existence in the criminalistic doctrine of diverse approaches to the interpretation of the functions of tactical operations, in particular, to know the essence of the functional appointment of this tool of investigation, in the context of the crime, will provide in-depth study of activity-oriented functions. In this sense, we mean that the implementation of tactical operations involves determining the main activities, role and appointment of this tactical tool in the investigation of unauthorized occupation of land and unauthorized construction. Regarding the latter provision, indeed, the tactical operation is a relatively independent specific structure of the activity type [13, p. 79] or acts as a means of investigator's activity, which is used to solve tactical tasks that arise in the detection, investigation and prevention of crimes [14, p. 81–82].

Developing this idea, the functional appointment of tactical operations in the investigation of unauthorized occupation of land and unauthorized construction is manifested in the context of basic functions. We managed to reach such a conclusion taking into account the stated position of V.Yu. Shepitko, which in the study of tactics as functions of this tactical tool identifies the following: 1) cognitive; 2) prognostic; 3) communicative; 4) regulatory [10, p. 64–68]. At the same time, supporting the stated approach and relying on the formed V.M. Shevchuk system of activity (basic) functions, we can note that the functional appointment of tactical operations in the investigation of unauthorized occupation of land and unauthorized construction should be considered in view of the functions of activity orientation, namely: 1) *cognitive*; 2) *prognostic*; 3) *regulatory*; 4) *organizational*; 5) *constructive*; 6) *search engine*; 7) *preventive* [15, p. 240–249, 16, p. 202–213, 17, p.38–48]. In this aspect, we believe that the argumentation of the special importance of these functions, necessitates their detailed study, based on the specifics and features of unauthorized occupation of land and unauthorized construction.

Thus, *the functional appointment of tactical operations of investigation of unauthorized occupation of land and unauthorized construction* – is the reflection of tactical operations through a system of properties as a reliable means of organization, optimization, efficiency of investigation, in order to influence the investigative situation to change it in a favorable direction and solve specific tactical tasks of this crime.

**Conclusions.** Based on the above, changing the structure and nature of illegal encroachments, increasing the intensification of countering the investigation of criminal acts, in particular, unauthorized occupation of land and unauthorized construction, require widespread introduction of effective comprehensive means of control, namely tactical operations. At the same time, the implementation of tactical operations is associated with understanding the properties of this tactical tool, which

indicate its role in the investigation of a particular crime, that is to say the definition of its functional appointment. Thus, the study allowed us to conclude that the functional purpose should be considered as a set of interrelated functions that reflect the main aspects and directions of tactical operations, focused on solving tactical tasks, while ensuring efficiency, optimization of the investigation of unauthorized occupation of land and unauthorized construction in general.

#### References:

- [1] Князев В.А. (1991) О понятии и классификации тактических задач расследования преступлений. *Проблемы социалистической законности*, (25). X: 116–119.
- [2] Шепітько В.Ю. (2008) Засоби криміналістичної тактики в діяльності органів досудового слідства (проблеми ефективності застосування). *Правові засади підвищення ефективності боротьби зі злочинністю в Україні*: матеріали наук. конф. (с. 172-174). 2008. Харків, Україна.
- [3] Шевчук В.М. (2017) Наукові передумови та методологічні засади формування тактичних операцій у криміналістиці. *Теорія та практика судової експертизи і криміналістики*, (17). 18–29.
- [4] Татарин Н.М., Пряжін Є.В. (2019) Методика розслідування самовільного зайняття земельної ділянки та самовільного будівництва: монографія. Львів: ЛьвДУВС.
- [5] Шевчук В.М. (2010) Проблеми функціонального призначення тактичних операцій. *Юридична осінь 2010 року*: зб. тез доп. та наук. повідомл. учасн. всеукр. наук.-пркт.конф. молодих учених та здобувачів (с. 161-164). 2010. Харків, Україна.
- [6] Шиканов В.И. (1983) Теоретические основы тактических операций в расследовании преступлений. Иркутск: Ид-во Иркут. Ун-та.
- [7] Дулов А.В. (1996) Криминалистика: учебное пособие/ [А.В. Дулов, Г.И. Грамович, А.В. Лапин и др].; под ред. А.В. Дулова. Минск : НКФ «Экоперспектива».
- [8] Михальчук А.Е. (1991) Тактические комбинации при производстве следственных действий. Саратов: Изд-во Саратов. Ун-та.
- [9] Шевчук В.М. (2013) Тактичні операції у криміналістиці: теоретичні засади формування та практика реалізації: монографія. Харків: Вид. агенція «Апостіль».
- [10] Шепітько В.Ю. (2007) Криміналістична тактика (системно-структурний аналіз): монографія. Харків: Харків юридичний, 2007.
- [11] Комаров И.М. (2002) Криминалистические операции в досудебном производстве: монография. Барнаул: Изд-во Алт. Ун-та.
- [12] Шепітько В.Ю. (2000) Тактика расследования преступлений, совершаемых организованными группами и преступными организациями: монография. Харьков: Нац. Юрид. Акад. Украины.
- [13] Криминалистика: учебник (1995) / под ред. В.А. Образцова. Москва: Юристъ.
- [14] Криміналістика: підручник у 2ч. Ч2. (2001) /М.В. Салтевський. Харків: Консум.
- [15] Шевчук В.М. (2010) Функціональна спрямованість тактичних операцій. *Вісник Академії правових наук України*, №4(63). 240–249.
- [16] Шевчук В.М. Функції тактичних операцій: наукові підходи, проблеми, перспективи. *Питання боротьби зі злочинністю*, (20). 202–213.
- [17] Шевчук В.М. Системний характер функцій тактичних операцій та їх класифікація. *Теорія та практика судової експертизи і криміналістики*, (10). 38–48.