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Conducting an Audit as a Type of Use of Special Knowledge in the Investigation of Misappropriation, Embezzlement of Property, or Taking Possession of it by Abuse of Official Position

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Abstract. The purpose of the study is to investigate audit as a type of use of special knowledge in the investigation of misappropriation, embezzlement of property, or seizure of it by abuse of official position; highlight the grounds for appointment, mechanism for conducting, and registration of audit results in criminal proceedings; determine the status of an auditor conducting an audit during a pre-trial investigation. The study used a set of scientific methods: terminological, system-structural, formal-logical, and comparative-legal. It is established that conducting an audit is a type of procedural form of using special knowledge in criminal proceedings. The auditor, as an official of the state financial control body that conducts an audit in accordance with the procedure established by law, is a specialist in criminal procedure. The auditor specialist has special economic, accounting, commodity science knowledge, special knowledge in the field of financial and budget reporting, knowledge and skills in the field of forensic documentation. Audit during the investigation of misappropriation, embezzlement of property, or seizure of it by abuse of official position is a method of collecting evidence that, together with other data, constitutes the subject of proof in criminal proceedings. Conducting audits is an effective means of identifying embezzlement by officials and signs of its concealment. For the audit during the investigation of misappropriation, embezzlement of property, or seizure of it by abuse of official position, in addition to the auditor, it is advisable to involve other specialists

Keywords: audit; auditor; specialist; special knowledge; misappropriation; embezzlement of property; taking possession of property; abuse of official position; embezzlement by officials

Introduction

Property is the economic basis for the existence of any society, and the inalienable right to be an owner is recognised as one of the most important guarantees for the exercise of individual rights and freedoms.

Among the criminal offences against property, crimes related to misappropriation, embezzlement of property, or seizure of it by abuse of official position are distinguished. The danger of them lies in the fact that they are committed on a substantial scale, mostly by officials using the corruption component, and they are mostly ongoing. Certain difficulties in practical activity arise during the qualification of relevant criminal acts, which are distinguished by the adjacency of such compositions as abuse of official position, abuse of official authority, official forgery [1; 2].

In 2020, 11,160 criminal offences on misappropriation, embezzlement of property, or seizure of it by abuse of official position were registered in Ukraine. Only 5,676 (50.9%) of them were served with a notice of suspicion. 4623 criminal proceedings were sent to the court with an indictment, and 1402 proceedings were closed [3].

The results of the courts' consideration of criminal proceedings under Art. 191 of the Criminal Code of Ukraine indicate the need to improve pre-trial investigation, primarily through the use of special knowledge by the investigator, the effective use of assistance from knowledgeable persons, depending on their forms and types.

Investigations of criminal offences related to misappropriation, embezzlement, or seizure of property by officials, in the vast majority of cases require audits and inspections at the relevant enterprises and institutions, and in cases of investigation

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of abuse of the right when using the legal arrangement by persons controlling it [4].

The analysis conducted shows that they considered the appointment and conduct of audits and inspections in the investigation of criminal offences in general or individual groups. In recent years, a number of changes and additions have been made to the criminal procedure legislation regarding the possibility of appointing audits of the financial and economic activities of legal entities. Currently, in investigative practice, there are certain difficulties in attracting auditors to verify facts that may serve as a basis for initiating criminal proceedings or form the basis for suspicion of officials who have committed official embezzlement.

These factors led to the need to consider modern approaches to the forms and types of use of special knowledge in criminal proceedings, in particular, during the investigation of criminal offences under Art. 191 of the Criminal Code of Ukraine, and the place of audit among them.

The purpose of the study is to identify the place of audit among the forms and types of use of special knowledge in the investigation of a criminal offence under Art. 191 of the Criminal Code of Ukraine; highlight the importance of audit results in the process of proof in criminal proceedings; determine the status of the auditor as a subject involved in the audit during criminal proceedings; outline the specific features of the auditor's involvement of other specialists during the audit.

Conducting an audit is a separate type of procedural form of using special knowledge in the investigation of criminal offences. Audit is absolutely important in the investigation of misappropriation, embezzlement of property, or seizure of it by abuse of official position, it serves as the basis for collecting evidence, which together with other data constitute the subject of proof in criminal proceedings under Art. 191 of the Criminal Code of Ukraine. The expediency of its use and content are primarily determined by the tasks of the investigation that the investigator faces in the framework of specific criminal proceedings.

Results and Discussion

The use of special knowledge in criminal proceedings involves forms, types, levels, and subjects. The form of using special knowledge in criminal proceedings should be interpreted as an external manifestation of their essence, which is determined by the content of this knowledge and finds its practical implementation in the investigation of criminal offences.

During the investigation of criminal offences, the use of special knowledge is conducted by: attracting specialists to take part in procedural and other activities; conducting forensic examinations; conducting various inspections, surveys; obtaining certificates and consultations from knowledgeable persons; requesting and using documents created by such persons in the course of their official activities; interrogating specialists as witnesses or forensic experts, if they took part in conducting forensic examinations [5].

Consideration of one broad form of a forensic examination [6] shifted to differentiation of forms into those that are provided for or not provided for in the code of Criminal Procedure, by whether the results have or do not have evidentiary value, by the subject of their use, etc. [7].

The procedural forms, in particular, those provided for by the Criminal Procedure Code of Ukraine, include the following: involvement of a specialist in conducting investigative actions; appointment of forensic examinations; interrogation of an expert. Generally describing the procedural forms of using special knowledge in criminal proceedings, they should include the involvement of knowledgeable persons directly specified in the criminal procedure law, regardless of the presence of procedural powers, rights, and obligations [8].

In some scientific sources, the forms of using special knowledge in criminal proceedings are divided into procedural and non-procedural. Many controversial issues regarding non-procedural forms of using special knowledge are highlighted. These include the position of V.K. Lysychenko and V.V. Tsyrcal [9], B.V. Romaniuk [10], and other researchers.

According to B.M. Bishmanov, "the terms "non-procedural" and "indefinite and not regulated by the criminal procedure law forms of using special knowledge" are unacceptable concepts. How can there be a "non-procedural" form of using special knowledge in procedural activities? The use of special knowledge can only be in a procedural form" [11].

Therewith, outside the procedural form of investigation is the use of special knowledge, skills, as "providing knowledgeable persons with reference and information assistance; conducting consultations by a specialist; conducting special studies of objects and documents before initiating a criminal case; training by a specialist of investigators for modern techniques and methods of investigating traces, working with new scientific and technical means, and their implementation by a specialist in investigative activities; involvement of a specialist in the development of preventive proposals" [11].

From the position of the current Criminal Procedure Code of Ukraine, notes E.D. Lukianchykov, the consulting form of using special knowledge should be considered a procedural form. "In such circumstances," the researcher claims, "the grounds for the activities of the subjects of their use are unclear and the evidentiary value of information obtained by non-procedural means is questioned, that is, in this case they will be illegal" [7].

According to V.P. Bakhin and O.O. Volobuieva, the relations that arise between an investigator and a specialist are procedural and non-procedural in nature, depending on the forms of their joint activities, which can be defined by the Criminal Procedure Code of Ukraine or developed by practice [12].

Procedural and non-procedural forms distinguish the procedure for obtaining information. According to its importance in proof, it is divided into evidentiary and orientation (organisational-tactical) information. Evidentiary information covers information about the circumstances to be proved in criminal proceedings, that is, circumstances related to the subject of proof (Art. 91 of the Criminal Procedure Code of Ukraine). Orientation information can be obtained in both procedural and non-procedural ways. It is used for organisational-tactical purposes in the investigation process (putting forward versions, determining the areas of the investigation, planning investigative actions, predicting the possible line of behaviour of participants in the investigation, etc.), and during the examination of evidence [13].

Therefore, it is advisable to refer to the form of using special knowledge, during which the investigator receives reference and consulting assistance, recommendations for the use of certain forensic techniques, data from information-communication sources, etc as organisational.

The analysis of the current legislation and various opinions of researchers gives grounds for concluding that audits and inspections belong to the procedural form of using special knowledge in criminal proceedings since they are conducted during criminal proceedings, and documents drawn up based on the results of their conduct are attached to the case and, together with other collected evidence, serve to establish the circumstances that are subject to proof.

Most researchers believe that audits refer to the procedural form of using special economic knowledge [14].

Researchers O.O. Bondarenko [15], A.M. Holdman [16], G.G. Muminova-Savina [17], O.V. Selina [18] refer to revisions as a mixed form of using specialised knowledge. In their opinion, the audit is an action of an administrative-legal nature, which is conducted in a criminal procedural form.

Researchers A. Dulov [19], V.I. Halushkin [20], Yu.O. Kalinkin [21], I.M. Sorokotiagin [22], L.G. Shapiro [23] argue that conducting an audit in criminal proceedings should be recognised as an independent form of using special knowledge, which, if appointed by an investigator or prosecutor, loses its administrative nature and turns from means of economic control into a criminal procedural action, that is, they believe that conducting an audit is a procedural action.

In the forms of using special knowledge in criminal proceedings, there are different types. Types of use of special knowledge are implemented in various areas by performing specific actions of methodological and organisational-practical area by knowledgeable persons within their procedural and professional competence. The types of use of special knowledge within the framework of the procedural form include the involvement of an expert in conducting investigative (search) actions, assigning expert examinations, and conducting audits. Types of organisational form of using special knowledge are consulting activities; information exchange; verification activities based on forensic records.

The use of special knowledge varies depending on the forms chosen, and on the specific investigative situation.

During the investigation of criminal law violations, audit turns into a method of collecting evidence in criminal proceedings, which consists in checking the financial and economic activities of an institution, enterprise, or organisation by an investigator or prosecutor through an auditor. In particular, in accordance with Art. 93 of the Criminal Procedure Code of Ukraine, the prosecution and the defence collect evidence, among other things, by requesting and obtaining audit conclusions and audit reports. According to part 2 of Art. 99 of the Criminal Procedure Code of Ukraine, documents, provided that they contain the information provided for in part one of this article, may include audit conclusions and audit reports [24].

Thus, an audit is a system of control actions to establish the legality, expediency, and economic efficiency of business operations performed over a certain period of time, and the legality of actions of officials during their implementation. Through audits, they identify the facts of theft of inventory and money, confirm the facts of abuse of official positions, and identify participants in criminal actions [25]. It is also used to prove that in disputed legal relations there are violations of the local act of the organisation – the provision on the purchase of goods, works, and services [26]. First of all, this is relevant for the departmental segment of the field (system) of effective provision of countering abuse in public procurement [27].

An audit is a form of state financial control, which consists in documentary and factual verification of certain complex or individual issues of financial and economic activity of the object of control, should ensure the identification of existing facts of violation of the law, the identification of officials and financially responsible persons accountable for their admission. It has a clear legal status that determines the procedure for initiating, appointing, conducting an audit, and registration, use, and appeal of its results [14].

The subject of audits and inspections includes factual data that must be established during control and which are fixed in advance in legislative and departmental regulations, and actual data on the state of compliance or violations of legal requirements, which must be established during the audit and inspection at certain control facilities. The specific subject of the audit is reflected in the audit programme, which is compiled during its preparation [28].

According to Art. 11 of the Law of Ukraine "On the basic principles of state financial control in Ukraine", a planned on-site audit is considered an audit in controlled institutions, which is provided for in the work plan of the state financial control body, it is conducted at the location of such a legal entity or at the location of the object of property rights in respect of which such a planned on-site audit is conducted [29].

By committing and concealing illegal possession of property, officials leave traces of their criminal activities in accounting and tax documents, registers, and financial reports of the enterprise, and documents concerning the powers of officials and record the procedure for passing and resolving cases in the enterprise, etc. [30]. These documents should be examined involving a specialist accountant (or auditor) to establish signs of unjustified or incorrect accrual, write-off or transfer of funds, inventory, setting tariffs, etc. [31].

One of the ways to investigate documents and collect evidence is to conduct unscheduled field audits by state financial control bodies.

An unscheduled on-site audit is considered an audit that is not provided for in the work plans of the state financial control body, it is conducted in the presence of at least one of the circumstances specified in part 5 of Art. 11 of the Law of Ukraine "On the basic principles of state financial control in Ukraine". In particular, law enforcement agencies apply mainly to the state financial control body on the grounds specified in paragraph 5 of part 5 of Art. 11 "in case of receipt of an order to conduct audits in controlled institutions from the Cabinet of Ministers of Ukraine, Prosecutor's offices, revenue and duties authorities, the National Police, the Security Service of Ukraine, the National Anti-Corruption Bureau of Ukraine, which contains facts indicating violations of the laws of Ukraine by controlled institutions, the verification of compliance with which is assigned by law to the competence of state financial control bodies" [29].

An unscheduled on-site audit can only be conducted if there are grounds for conducting it based on a court decision. Until recently, investigators submitted petitions, which were coordinated by prosecutors, to investigative judges with a request to appoint unscheduled audits to clarify certain issues in criminal proceedings, in particular, under Art. 191 of the Criminal Code of Ukraine. Such a decision of the investigating judge is not subject to appeal.

Therewith, the situation when during a planned audit, the facts of official embezzlement in controlled enterprises are identified is notable. In these cases, the auditors of the State Audit Service of Ukraine (SASU) must properly inform law enforcement agencies about this.

Part 2 of Art. 12 of the Law of Ukraine "On the basic principles of state financial control in Ukraine" provides for the obligation of employees of the state financial control body to transfer audit materials to the law enforcement agencies in cases of detection of abuses and violations of the law. The law also obliges these persons to immediately report this to law enforcement agencies in case of seizure of documents in connection with their forgery or detected abuse [29]. In fact, this refers to specialists of the supervisory authority who found forged documents, embezzlement by officials, or other violations of the law during the audit or inspection.

Information of the State Audit Service is a reason for the initiation of criminal proceedings on the fact of misappropriation, embezzlement of property, or taking it by abuse of official position, entering relevant information in the Unified Registry of Pre-Trial Investigations (URPTI).

In this case, after receiving the results of inspections or audits of specialists, the investigator enters information about the commission of a criminal offence in the unified state register of legal entities and begins a pre-trial investigation in the general procedure. For example, according to the provided audit report of the Ternopil Regional Department of JSC "Oschadbank", the investigative department of the National Police Office in the Ternopil region in April 2019 launched a pre-trial investigation in criminal proceedings on the seizure of someone else's property by abuse of official position. During the pre-trial investigation, it was established that the controller-cashier of Oschadbank branch No. 100019/035 Person_1 took possession of the bank's clients' funds by deception and abuse of official position. It is established that according to the act of audit of the Ternopil Regional Department of JSC "Oschadbank" of reversed operations for accepting cash payments from individuals, on the facts of unauthorised reversal of payments by the controller-cashier of the Ternopil bank branch No. 10019/035 Person_1, 23 suspicious operations of reversed underpayments for the purpose of payments in the amount of 150820.48 UAH were identified. During the pre-trial investigation, it was established that the suspect forged signatures in Oschadbank receipts [32]. Therefore, in recent years, in sectors with a substantial volume of transactions, such as banking, continuous audit combined using documentary data mining has become an important means of effectively managing the risk of official fraud [33].

An unscheduled on-site audit of the financial and economic activities of the object of control, which is conducted in criminal proceedings by the SASU body through documentary and factual verification, may be appointed by a court decision on granting permission or by a decision of an investigator, the prosecutor (in case of notification to officials of institutions that are being audited about suspicion of committing a criminal offence under Art. 191 of the Criminal Code of Ukraine).

In the practice of investigating misappropriation, embezzlement of property, or taking it by abuse of official position, there are cases when the investigator, sending a request to the state financial control body about the need to conduct an audit at a certain time, receives information that such an audit will be conducted later, in connection with the planned audit of the enterprise.

For example, in the criminal proceedings initiated under part 3 of Art. 191 of the Criminal Code of Ukraine, the decision of the investigating judge of the Vinnytsia City Court granted the investigator's request to conduct an unscheduled audit of the financial and economic activities of the Department of Construction, Urban Planning, and Architecture of the Vinnytsia Regional State Administration lasting 15 working days, starting from February 15, 2018. After sending this resolution to the state financial Inspectorate in the Vinnytsia region, the investigative unit was given a response that in February a planned audit of the Department for the previous two years will be conducted, during which the correct use of funds for the construction of a new school building will be checked first, and the law enforcement agency will be additionally informed about this after the audit is completed. The audit report was drawn up only on May 23, 2018, and subsequently sent to the investigator. Such a delay in the timing of the audit of financial and economic activities contributed to the concealment and destruction of documents on their illegal actions by those responsible for embezzling budget funds. The criminal proceedings were closed due to the absence in the actions of officials of the Department of Construction, Urban Planning, and Architecture, deputies of the District Council and the school director of the composition of a criminal offence under Art. 191 of the Criminal Code of Ukraine [34].

The study considers this practice unacceptable for achieving the tasks of pre-trial investigation, and in some cases such that it may have signs of countering the investigation of criminal offences.

Audits, both planned and unscheduled, are conducted by other regulatory bodies specially authorised for such activities by SASU entities [35]. Subjects of control are knowledgeable persons in the financial, economic fields, and in other areas of knowledge used in conducting audits and inspections. In particular, an auditor is an official who is charged with conducting an audit, monitoring the financial and economic activities of a certain institution, organisation, or enterprise.

It is advisable to analyse the question of whether an auditor (an official of the State Audit Service body) who legally conducts an audit of a certain enterprise should be considered a specialist in the criminal procedural sense.

Further, the status of the auditor and their powers are considered. Paragraph 16 of the procedure for conducting an inspection of the SASU and its interregional territorial divisions defines the methods of conducting an audit, namely by:

a) documentary verification, which provides for control over constituent, financial, accounting (primary and consolidated) documents, statistical, financial, budget reporting, business contracts, administrative, and other documents of the object of control related to the planning and implementation of financial and economic activities, accounting, preparation of financial statements;

b) factual verification, which provides for control over the availability of monetary amounts, securities, strict reporting forms, current and non-current assets, other tangible and intangible assets by conducting an inventory, survey, and control measurement of the work performed, the correctness of applying the norms of consumption of raw materials, the output of finished products, and natural losses by organising control launches into production, control analysis of finished products and other similar actions involving relevant specialists of the state financial control body or other bodies, enterprises, institutions, and organisations [35].

Thus, auditors have knowledge in the field of economics: special economic knowledge, special accounting knowledge, special knowledge in the field of financial and budget reporting.

Part 3 of Art. 12 of the Law of Ukraine "On the basics of State Financial Control" states that in case of seizure of documents in connection with their forgery or detected abuses, an employee of the state financial control body is obliged to immediately inform law enforcement agencies about this [29]. This provision of the Law certifies that the auditor must have special knowledge and appropriate skills in the field of forensic documentation.

The procedure for interaction between the SASU bodies and law enforcement agencies is regulated by a joint order of the main control and audit department (now – SASU), the Ministry of Internal Affairs, the Security Service of Ukraine, and the Prosecutor General's Office of Ukraine [36]. Its general provisions refer to ensuring effective interaction between the SASU bodies and law enforcement agencies on the consideration of their appeals, the appointment, organisation, and conduct of audits on them, the transfer of audit materials to law enforcement agencies on the initiative of the SASU bodies, feedback on the results of consideration of the transferred materials, the allocation of specialists from the SASU bodies, and other issues. In particular, employees of the SASU bodies can take part in inspections that they conduct in controlled institutions and other control facilities as specialists at the request of law enforcement agencies [36].

The grounds for law enforcement agencies to apply to the SASU bodies regarding the allocation of employees as specialists are the norms of the laws of Ukraine, the Criminal Procedure Code of Ukraine, etc. The rights and obligations of a service official who is involved as a specialist to take part in an investigative action are defined in the Criminal Procedure Code of Ukraine [36].

In paragraph 3.1 of the joint order, it is directly stated that when participating in the audit, the specialist uses their special knowledge and, within the scope of competence, provides advice, answers to the questions raised, records the facts of violation of legislation on the use and preservation of financial resources, non-current and other assets, the correctness of determining the need for budget funds and taking obligations, the state and reliability of accounting and financial reporting, determines the amount of material damage (losses) and officials caused as a result of actions or inactions of which violations of the law were committed and material damage (losses) were caused [36]. Therefore, the auditor involved as a specialist must have knowledge of commodity science.

Considering the analysis of modern legal sources, the legislator considers a specialist to be a person who has special knowledge and skills in using technical or other means that can provide advice during pre-trial investigation and judicial proceedings on issues that require appropriate special knowledge and skills [24]. Investigating various schemes of embezzlement in the public sector, as M.I. Khavronyuk rightly notes, employees of the SASU bodies can take part in inspections conducted by law enforcement agencies in controlled institutions and other objects of control as specialists, that is, in this case, they have the rights and obligations outlined in Art. 71 of the Criminal Procedure Code of Ukraine [37].

Art. 71 of the Criminal Procedure Code of Ukraine provides that a specialist in criminal proceedings is a person who has special knowledge and skills and can provide advice and conclusions during pre-trial investigation and judicial proceedings on issues that require appropriate special knowledge and skills [24].

Thus, it is stated that an official of the state financial control body, who, in accordance with the procedure established by law, conducts an unscheduled field audit at an enterprise, institution, or organisation and discovers forged documents of financial and economic activity, facts of embezzlement by officials, or other signs of criminally punishable acts, is a specialist in criminal procedure.

When preparing for the audit, specialists of the state financial control body draw up an audit programme in two copies, agreed in writing with the law enforcement agency, in which they determine the name of the object of control, the subject, the period, and issues to be audited in accordance with the competence of the state financial control body [29]. This is how an interaction takes place between the specialist – the person who checks and the investigator, who, determining the issues that should be clarified during the audit, thus uses the special knowledge of a knowledgeable person.

In addition to the auditor, other specialists may also be involved in the audit. The specific features of attracting other specialists during audits in proceedings under Art. 191 of the Criminal Code of Ukraine directly depend on the object of encroachment and the methods of committing a crime. These factors are crucial for the decision of the investigator to identify specialists who should be recommended for inclusion in the audit team and use their special knowledge during control actions.

According to paragraph 6 of the regulations on the state audit service of Ukraine, this body has the right to involve researchers and specialists, employees of central and local executive authorities, state funds, local self-government bodies, enterprises, institutions, and organisations in coordination with their managers to perform certain works, and to conduct control measurements of construction, installation, repair, and other works, control launches of raw materials and materials into production, control analyses of raw materials, materials, and finished products, and other inspections in accordance with the established procedure [38].

Part 1 of Art. 8 of the Law of Ukraine "On the basics of state financial control" among the main functions of the state financial control body defines the involvement on a contractual basis of qualified specialists of the relevant executive authorities, state funds, enterprises, institutions, and organisations [29].

For example, in Vinnytsia, a criminal offence under part 5 of Art. 191 of the Criminal Code of Ukraine was investigated. Officials of ltd_1 by abusing their official position through mechanical interference in the operation of metering devices during the production of canned fish in 2016 illegally turned in their favour about 65,959 m^3 of water of communal property worth 671,198.78 UAH. The production capacity was 120 thousand cans of canned fish per day. At the request of the investigator, the municipal enterprise "Vinnytsaoblvodokanal" on water consumption, used by Ltd_1 during economic activities at the location of its main production facilities, a response was provided about the supply of 21,041 m^3 of drinking water in 2016. These data did not correspond to the indicators provided by state standards for the production by Ltd_1 of canned food of specific types. The investigator issued a request for an unscheduled inspection of compliance with the requirements of environmental legislation in the field of natural resources protection. The investigating judge granted the request, entrusting its implementation to specialists of the State environmental inspectorate in the Vinnytsia region. The inspectorate fulfilled the court's decision and drew up an act of verification of compliance with the requirements of environmental legislation in the field of protection of atmospheric air, water, and land resources for the management of waste and hazardous chemicals. The inspection was conducted by the chief specialist of the department of environmental control of water resources and atmospheric air, the state inspector for environmental protection. The inspector identified that on the territory of the enterprise there is a water intake borehole with a depth of 80 m with a flow rate of 3 m^3/h and a tubular well with a depth of 18.5 m with a flow rate of 0.25 m^3/h. A tubular well is used, but a borehole is not. There is no water meter on the tubular well, and the company does not record water intake, its use is not recorded in accounting logs. The inspection report, which was drawn up by the involved specialist of the State environmental inspectorate, played an important role in conducting a number of interrogations, appointing forensic examinations, and other investigative (search) actions [39]. The procedure for interaction between the SASU bodies and law enforcement agencies provides that to conduct an audit, a referral is issued in two copies in a form established by The Ministry of Finance for each official of the state financial control body and the specialist involved. Before starting the audit, officials of the state financial control body and attracted specialists must issue a referral and a copy of the court decision to the head of the control object or their deputy, a receipt on a copy of the state financial control body (paragraphs 10-12) [36].

Based on the results of the audit, a report is drawn up. The audit report contains a list of officials of the state financial control body and involved specialists who conducted the audit. In the stating part of the audit report, information about the audit results in the context of each issue of the programme is covered, indicating for what period, in what way (selective, continuous), and according to what documents these issues were checked, the conclusion on the presence or absence of violations of the law, and, if any, the amount of losses caused to the state or the object of control as a result of such violations is determined in accordance with the procedure established by law [35].

Thus, the data set out in the audit report states the result of applying special knowledge by auditors and other specialists involved in the audit.

During the audit, the specialist verifies the specific issues included in the audit programme, determined in advance by the investigator (prosecutor) regarding the use and preservation of financial resources, non-current and other assets, the condition, reliability of accounting and financial statements for a certain period of time. Based on its results, a specialist of the SASU body can identify facts of violation of the law and identify the officials involved, financially responsible persons of the object of control that is being audited. It should be considered that the subject of misappropriation, embezzlement of property, or taking it by abuse of official position can be a financially responsible person who has certain powers in accordance with local regulatory legal acts [40].

The most common questions that need to be answered by a specialist auditor during the audit and which the investigator notes in the application for their appointment in criminal proceedings on misappropriation, embezzlement of property, or taking it by abuse of official position include the following:

1) were there any facts of embezzlement, misuse of budgetary or private funds that were under the economic jurisdiction of an official;

2) what are the inconsistencies between accounting registers and data from accounting reports and other reporting documentation of a legal entity?;

3) are there any facts of concealment and disguise of the illegal origin of funds, performing financial transactions with funds received as a result of illegal activities of an official;

4) which violations of the requirements of the current legislation regarding overestimation of the volume and cost of work performed under agreements concluded by authorised officials are identified, the amount of losses established;

5) are there any facts of the illegal conclusion of contracts and receipt of income from unlicensed activities;

6) have the facts of illegal transfer of funds to the current bank accounts of other legal entities been identified;

7) what inconsistencies were determined between documents confirming the amount of products produced and documents on finished products sold for a certain period of time, etc. [41].

The opinion of A.P. Zapototskyi, that in the process of preparing petitions, when determining audit tasks and questions to the auditor, it is advisable to involve a specialist in economics for consultation, is correct [42].

In case of detection of a shortage of funds, material values, and other violations with signs of embezzlement by officials, detection of fictitious documents, forgeries, and falsifications, the auditor withdraws the original documents until the end of the audit, which informs the initiator of the audit in writing. The results of control measurements, control launches of raw materials into production, laboratory tests, issued by specialists and signed by the management of the control object with appropriate certificates, are briefly stated in the main audit report [43].

On the facts of detected violations and shortages of cash and inventory, and in other cases when it is necessary, the auditor selects written explanations from officials and financially responsible persons of the enterprise that is being audited (checked) [44].

During the audit, the auditor single-handedly evaluates financial and economic operations for non-compliance with financial and legal norms and bears the responsibility provided for by law for the quality and completeness of the performance of the official order. None of the representatives of law enforcement agencies has the right to interfere in the work of the auditor (head of the audit group), oblige him to conduct certain control measures, influence the assessment of the results of audit actions [44].

After receiving the audit materials and for the purpose of evaluating them, the persons who conducted the relevant audit may be questioned by the investigator, prosecutor, or court regarding the circumstances of their work. In this case, the auditor specialist and other specialists involved acquire the status of witnesses with appropriate rights and obligations (Art. 65-67, 224 of the Criminal Procedure Code of Ukraine).

In particular, in the criminal proceedings on a criminal offence under part 3 of Art. 191 of the Criminal Code of Ukraine, it was established that officials of the village council together with employees of the company "K." during the reconstruction of the village school by entering false information in the acts of completed construction works regarding the salary of employees of the company during September-November 2015 seized budget funds. During the investigation, the investigating judge granted permission to conduct an unscheduled audit of the financial and economic activities of the village council. The audit was conducted by the state financial Inspectorate in the Vinnytsia region. After receiving the audit report, it became necessary to interrogate the auditor – the chief state financial inspector of the SFI in the Vinnytsia region, citizen Ch. During the interrogation of citizen Ch. as a witness, the amount of overstatement of the cost of paying for the reconstruction of the school, the process of signing acts of control measurements were additionally clarified [45; 46]. The obtained information was used by the investigator during the interrogation of suspects, and planning investigative (search) actions in criminal proceedings.

Conclusions

Conducting audits is an effective means of identifying certain ways of concealing a criminal offence under Art. 191 of the Criminal Code of Ukraine, in particular: falsification and (or) destruction of documentary sources of information, hiding and (or) masking information about the financial and economic activities of an enterprise, organisation, institution.

An auditor as an official of the state financial control body, in accordance with the procedure established by law, conducts a planned audit or is involved in an unscheduled field audit at an enterprise, institution, organisation, discovers forged documents of financial and economic activity, facts of embezzlement by officials, or other signs of criminally punishable acts, properly documents them, is a specialist in criminal procedure. The auditor specialist has special economic, accounting, and commodity science knowledge, special proficiency in the field of financial and budget reporting, and knowledge and skills in the field of forensic documentation.

In addition to the auditor, to conduct the audit during the investigation of the criminal offence, provided for in 191 of the Criminal Code of Ukraine, it is recommended to involve other specialists to conduct control measurements of construction, installation, repair, and other works, control launches of raw materials and materials into production, control analyses of raw materials, materials, and finished products, etc.

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Проведення ревізії як вид використання спеціальних знань під час розслідування привласнення, розтрати майна або заволодіння ним шляхом зловживання службовим становищем

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■ **Анотація**. Метою статті є дослідження ревізії як виду використання спеціальних знань під час розслідування привласнення, розтрати майна або заволодіння ним шляхом зловживання службовим становищем; висвітлення підстав призначення, механізму проведення та оформлення результатів ревізії в кримінальному провадженні; визначення статусу ревізора, який проводить ревізію під час досудового розслідування. У статті використано комплекс наукових методів, а саме: термінологічний, системно-структурний, формально-логічний, порівняльно-правовий. Встановлено, що проведення ревізії є видом процесуальної форми використання спеціальних знань у кримінальному провадженні. Ревізор як посадова особа органу державного фінансового контролю, що в установленому законом порядку проводить ревізію, є спеціалістом у кримінальному процесуальному значенні. Спеціаліст-ревізор володіє спеціальними економічними, бухгалтерськими, товарознавчими знаннями, спеціальними знаннями в галузі фінансової та бюджетної звітності, знаннями та навичками в галузі криміналістичного документознавства. Ревізія під час розслідування привласнення, розтрати майна або заволодіння ним шляхом зловживання службовим становищем є способом збирання доказів, які в сукупності з іншими даними становлять предмет доказування в кримінальному провадженні. Проведення ревізій є ефективним засобом виявлення службових розкрадань, ознак їх приховування. Для проведення ревізії під час розслідування привласнення, розтрати майна або заволодіння ним шляхом зловживання службовим становищем, крім ревізора, доцільно додатково залучати інших спеціалістів

■ **Ключові слова**: ревізія; ревізор; спеціаліст; спеціальні знання; привласнення; розтрата майна; заволодіння майном; зловживання службовим становищем; службові розкрадання