

INVESTIGATION OF THE INTENTIONAL DESTRUCTION OR DAMAGE TO ANOTHER'S PROPERTY COMMITTED BY ARSON AND ITS IMPACT ON THE ECONOMIC CONSEQUENCES OF THE WAR AND ITS SIGNIFICANCE IN THE POST-WAR RECONSTRUCTION OF UKRAINE

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INTRODUCTION

Criminal offenses related to the intentional destruction or damage to property committed by arson are one of the sources of threats to the national security of the state and cause significant damage not only to society's relations regarding property, but also endanger other areas of activity of citizens of Ukraine, violating their constitutional rights guaranteed by the state. According to Article 41 of the Constitution of Ukraine, everyone has the right to own, use and dispose of their property, in addition, no one can be unlawfully deprived of the right to property¹.

Arson is one of the ways of committing a crime provided for in Part 2 of Article 194 of the Criminal Code of Ukraine². In addition, in modern conditions of martial law, the use of means of warfare prohibited by international law, other violations of the laws and customs of war lead to fires and the destruction of critical infrastructure of our country by fire. Analysis of statistics of the Prosecutor General's Office of Ukraine in recent years indicates a decrease in the number of destruction or damage to other people's property committed by arson. However, the percentage of unsolved crimes in this category remains significant. Thus, during 2019, the National Police of Ukraine recorded 1,035 criminal offenses under Art. 194 Part 2, while suspicion was reported in 101 proceedings, in 2020 – 935, suspicion was reported in 144 proceedings, in 2021 – 668, suspicion was reported in 157, in 2022 – 342, suspicion was reported in 97, in 2023 – 457, 203, in 2024 – 703 suspicion was reported in 436 proceedings. As of 02/20/2025, 157,129 crimes of aggression and war crimes were registered³.

The reasons for the insufficient number of crimes in this category being solved are a number of objective and subjective factors, which include the following: lack of a comprehensive and systematic approach and participation

¹ Конституція України. Відомості Верховної Ради України (ВВР), 1996, № 30, ст. 141. URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text>.

² Кримінальний процесуальний кодекс України. Відомості Верховної Ради України (ВВР), 2013, № 9-10, № 11-12, № 13, ст. 88. URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text>.

³ Статистична інформація. Офіс Генерального прокурора : веб-сайт. URL: <https://www.gp.gov.ua/ua/1stat>.

of various categories of specialized services; untimely conduct of initial investigative (search) actions, due to which the «tracer picture» and evidentiary information are lost; low level of provision of investigative units with modern technical and forensic means; insufficient qualification and training of investigators conducting pre-trial investigation of this category of proceedings; ineffective system of prevention and warning of these criminal offenses; lack of effective modern investigation methods and opportunities to use special knowledge to obtain forensically important and significant information about the circumstances of the committed criminal offense; improper study and ignoring of scientific recommendations on the organization, planning, technical and forensic support of the investigation of this category of criminal offenses; insufficient level of practical training of law enforcement officers participating in the pre-trial investigation of this category of criminal proceedings; low level of interaction of the investigator with other services when conducting initial investigative (search) actions, including when inspecting the scene of the incident. All of the above reasons have a negative impact on the number of unsolved intentional arsons of other people's property.

In these conditions, specially organized and prepared arson of other people's property has become a sufficiently developed means of psychological influence and causing harm for the purpose of extortion, disruption of the normal operation of economic facilities, to eliminate competitors in the commercial sphere, to obtain unjustified compensation for property losses, etc. Taking into account the above, there are reasons to believe that such a method of influencing people, based on damaging other people's property by arson, will take place in the present and develop in the future. That is why it is important to improve the activities for investigating such offenses, namely, to increase the organizational foundations of investigative activities and the efficiency of conducting investigative (search) and other procedural actions.

1. Forensic characteristic of intentional destruction or damage to another's property committed by arson

Forensic characteristic is one of the components of the investigation methodology of certain types of criminal offenses. It contains information about the criminal offense as a whole and its individual elements. Unlike other characteristics (criminal law, criminological), it is, firstly, a system of only forensically significant information about the signs of a specific type of offense, and not the same for all their types. Secondly, information about the signs of the elements of the offense is described at a qualitative and quantitative level. Thus, the practical significance of this category of forensics

increases⁴. That is, the specified scientific category is used both in the practice of investigating criminal offenses and in the scientific field.

V. O. Malyarova points out that neither criminal-legal, nor criminological or other characteristics are able to cover a number of features that are important for the formation and implementation of forensic methods. Such features include, in particular, those related to actions aimed at preparing for the commission of a crime and concealing its traces, with the mechanism of trace formation, etc. They are not included in the number of criminal-legal or criminological, since they do not have legal significance and the necessary substantive features. The information provided in these characteristics is not of the same order and competing, although it is quite close in essence. They are intended to solve different tasks, are components of different systems, therefore they can be studied in parallel and in a complex⁵.

Regarding the definition of forensic characteristics, we adhere to the opinion of V. P. Bakhin and B. Lukyanchikova, who, having studied a large number of scientific sources, came to the conclusion that the forensic characteristic is understood as follows: an information model of typical features of a certain type (group) of crimes; a plausible model of the event; a system of data (information) about the crime that helps in the disclosure and investigation; a system of generalized factual data, knowledge of which is necessary for organizing the disclosure and investigation of crimes; a system of features of the type of crimes that are important for the investigation; a system of describing forensically significant features of crimes in order to ensure their disclosure, investigation and prevention⁶.

Regarding the elements of the forensic characteristic, there are also a number of opinions, but the overwhelming majority of scientists cite four to six elements of the scientific category under study, in particular: the method of commission, traces of the crime, the subject of the criminal offense, the circumstances of the commission of the offense, the personality of the offender and the victim⁷. M. V. Saltevsy notes that the elements can be reduced to four: «the subject of direct attempt; the method of committing a crime in its broad sense; a typical situation – a «trace picture» in its broad

⁴ Волобуєв А. Ф. Криміналістична характеристика розкрадань майна у сфері підприємницької діяльності. *Вісник Університету внутрішніх справ*. Вип. 2. Харків. 1997. С. 32.

⁵ Малайрова В. О. Криміналістична методика: питання співвідношення криміналістичної характеристики з іншими. *Науковий вісник Ужгородського національного університету*. 2015. Серія Право. Випуск 35. Частина I. Том 3. С. 114.

⁶ Бахін В. П., Лук'янчиков Б. Є. Склад і призначення криміналістичної характеристики злочинів. *Правничий часопис Донецького університету*. 2000. № 1 (4). С. 39.

⁷ Криміналістика : підруч. для студ. вищ. навч. закл. [К. О. Чаплинський, О. В. Лускатов, І. В. Пиріг, В. М. Плетенець, Ю. А. Чаплинська]. 2-е вид. перероб. і доп. Дніпро : Дніпроп. держ. ун-т внутр. справ; Ліра ЛТД, 2017. С. 350.

interpretation; the personality of the criminal»⁸. Supporting the above positions, we note that the informative content of the forensic characteristic largely depends on the composition of the criminal offense itself. Therefore, we consider it necessary to consider the positions of scientists regarding the related components of illegal acts.

We consider it appropriate to consider the methodology for investigating fires committed by arson as a single one, regardless of the object of the attack, the causes of the fire and the motives of the crime. The validity of such a position is confirmed by the data obtained from the analysis of the results of the study of forensic and investigative practice. The means of causing criminal damage in arson is fire, which leaves a certain type of traces that characterize the conditions of occurrence, the direction of combustion, etc. Therefore, in criminal proceedings of this category, at the initial stage of the investigation, it is necessary to establish the cause of the fire and, on this basis, determine the method of committing the crime, the identity of the perpetrator, the form of guilt, the motive and purpose of the crime. In addition, it should be noted that all fires are subject to uniform conditions of occurrence and development. A fire is not a random, spontaneous phenomenon. The occurrence of a fire is the result of a number of circumstances that determine its cause.

In criminal law, the subject of a crime is understood as property belonging to collective, private or state organizations, as well as private or individual property. It can be movable and immovable: buildings, structures, equipment, etc. Property as the subject of a criminal offense must have a commodity, exchange value. At the same time, for the person committing the offense, it must be someone else's, that is, it must belong to another person on property rights⁹.

In criminology, the subject of the encroachment is interpreted somewhat differently. According to M. V. Saltevsy, the subject of direct encroachment is a physical object (things and objects) of organic and inorganic origin, which is a material expression of social relations¹⁰. According to I. V. Pyrih and M. M. Efimov, not any object of the situation of the commission of the offense that interacts with the subject should be considered as an object, but only the one with which the occurrence of harmful consequences is associated. The subject of a criminal offense can be considered as the final product, the result of the unlawful activity of the subject. Information on the subject of the criminal offense during the investigation of the intentional destruction or damage to another's property committed by arson allows you to establish the

⁸ Салтевський М. В. Криміналістика (у сучасному викладі) : підручник. Київ : Кондор, 2005. С. 456.

⁹ Кримінальне право України. Особлива частина: підручник. [Ю. В. Баулін, В. І. Борисов, В. І. Тютюгін та ін.]; за ред. проф. В. В. Сташиса, В. Я. Тація. 4-е вид., переробл. і доповн. Х. : Право, 2010. С. 177.

¹⁰ Салтевський М. В. Криміналістика (у сучасному викладі): Підручник. К.: Кондор, 2005. С. 458.

nature, features of the lost property and the amount of damage caused¹¹. Information on the subject of the offense is important in establishing the method of committing the crime, clarifying the motives of criminal behavior and the characteristics of the offender himself.

In the scientific forensic literature, the subject of the criminal offense when committing a crime by arson was not considered. Scientists paid attention to the subject of the offense during the investigation of all crimes related to fires, regardless of the cause of their occurrence. Some scientists call the place of origin of the fire as a separate element of the forensic characteristics or as a component of the situation. Thus, A. I. Kuntiy notes that according to the place of committing the intentional destruction or damage to property, they distinguish: in residential premises; in warehouses; at enterprises; on transport; in cultural and mass institutions; at agricultural facilities; in an open area with forest plantations, etc¹². In our opinion, in the methodology of investigating the intentional destruction or damage to another's property committed by setting fire to a building, structures and other premises act on the one hand as the subject of direct encroachment, and on the other as the place where the objects of direct encroachment are stored. In both cases, the guilt represents a separate element of the forensic characteristic that requires development and is interconnected with other elements, in particular the method of committing the crime.

The analysis of scientific literature and the results of the study of criminal proceedings materials made it possible to separate the subject of criminal encroachment, which is:

1. Residential premises of individual citizens: apartments, separate houses (manor or country house type) (21 %).
2. Outbuildings: barns, cellars, transformer houses, gazebos, garages, etc., which can be located both separately and on the territory of estate plots and summer cottage cooperatives (10 %).
3. Small architectural forms: counters, kiosks, small shops, workshops, etc. (14 %).
4. Shops, retail premises (8 %).
5. Warehouses and storage facilities for goods (6 %).
6. Manufacturing enterprises, workshops and separate sections and premises in them (4%).
7. Buildings of state bodies, enterprises and organizations of any form of ownership, offices, banks, premises of local governments, etc. (9 %).
8. Entertainment establishments, cafes, restaurants, cinemas, theaters, etc. (10%).

¹¹ Єфімов М. М., Пиріг І. В. Методика розслідування окремих видів кримінальних правопорушень : підручник. Дніпро : Видавець Біла К. О., 2022. С. 18.

¹² Криміналістика: підручник [Р. І. Благута, О. І. Гарасимів, О. М. Дуфенюк та ін.]: за заг. ред. Є. В. Пряхіна. 3-тє вид., переробл. та допов. Львів: ЛьвДУВС, 2016. С. 756-757.

9. Motor vehicles: cars, including trucks, motorcycles, mopeds (16 %).

10. Agricultural products, including those stored in hangars and other storage facilities (2 %).

In our opinion, the methods of committing a crime that resulted in a fire occupy a key place in the structure of the forensic characteristics of crimes of this category. The meaning of the method of committing a crime and its connection with other elements of the forensic characteristics was meaningfully characterized by V. V. Tishchenko, who included in the content of the method of crime a complex (system) of the offender's actions to prepare, commit and conceal a crime, determined by the purpose of the criminal offense, the properties of the offender's personality and the situation (subjective and objective factors), the results of which are reflected in the material and intellectual traces that characterize the physical and mental features of the offender's personality¹³.

According to S. M. Zavvalov, V. K. Veselsky, V. V. Pyaskovskii, the method of committing an offense is not a simple sum or complex of behavioral acts, but represents a certain integral structure of behavior, that is, a system. The method, like any system, consists of interconnected elements, acts of behavior aimed at preparing, committing and concealing a criminal offense. These acts of behavior in the form of actions, techniques, operations are interconnected according to a certain hierarchy and subordination as part of purposeful volitional activity. According to the above-mentioned scientists, the methods of committing criminal offenses, according to the degree of complexity of applying a particular method, can be divided into: fully structural or most qualified, including the preparation, commission and concealment of a crime; less qualified or truncated of the first type, including the commission and concealment of a crime; less qualified or truncated of the second type, including the preparation and commission of a crime; unqualified or simplified, consisting only of committing a crime¹⁴. The same classification in content is followed by G. A. Matusovsky, dividing the methods of committing a crime into: single-element, which take place without preparation and concealment; complex two-element, which, in addition to the main element, include actions to prepare and conceal the event of a crime; full or three-element, which include preparation, direct commission and concealment of a criminal offense¹⁵. We agree with the opinions expressed by scientists and believe that the method of committing a criminal offense consists of three

¹³ Тищенко В.В. Концептуальні основи розслідування корисливо-насилницьких злочинів: автореф. дис. ... д-ра юрид. наук: 12.00.09. Національна юридична академія України імені Ярослава Мудрого. Х., 2003. С. 18.

¹⁴ Весельський В. К., Зав'ялов С. М., Пясковський В. В. Сучасні можливості використання даних про спосіб вчинення злочину в боротьбі зі злочинністю : навч. посіб. [для студ. вищ. навч. закл.]. Київ : КНТ, 2009. С. 25.

¹⁵ Матусовський Г. А. Економічні злочини: криміналістичний аналіз. Харків : Консум, 1999. С. 308.

interrelated elements: preparation, direct commission and concealment. The analysis of forensic practice has established that when organizing arsons with the aim of destroying or damaging someone else's property, criminals used mainly (93 %) full-structure methods, which consisted of preparation, commission and concealment of a crime.

Scientists directly classify the methods of committing arsons on various grounds. The authors of the manual of the National Academy of Internal Affairs distinguish the following methods of arson: a) introducing a source of combustion for ignition, which does not require significant preparation; b) using auxiliary combustible substances or materials that were brought from outside or were at the scene of the crime; c) using special technical means, pre-prepared incendiary devices designed for reliability and conspiracy during the commission of criminal acts. M. V. Saltevsy considers the following to be the most common methods of arson: a) using flammable objects: ether, gasoline, gas, alcohol, carbon sulfur, sodium phosphorus; b) using specially prepared devices of both remote and contact action; c) using special devices for ignition from solar energy; d) creating conditions for spontaneous combustion of objects (improper stacking of coal, cotton). In general, we agree with the opinions expressed by scientists and the classification given, but in the above theses, the methods of preparation and commission of the crime are combined, and the methods of concealment are not given at all. It should also be noted that there is a combined method of arson, which includes a combination of the above methods.

It should be noted that the choice of a particular method by the criminal depends on the characteristics of the object of the offense and its affiliation; the environment in which the criminal event occurs, namely: time of day, weather and climatic conditions, etc.; the personality of the criminal, motive and goal, his professional skills and criminal experience, etc.

In our opinion, when committing the destruction or damage of someone else's property by arson, the preparatory stage should include the following actions:

1. Choosing the object of the offense. In this case, it is necessary to take into account: the location of the object; the presence of security, a system for controlling the object: alarm, video surveillance, watchdogs; the quality of locking devices, bars on the windows if the purpose of the arson is the interior of the building.

2. Monitoring the object in order to establish the operating mode, the location of surveillance cameras, choosing ways and means of approach and disappearance from the scene, etc.

3. Choosing the method of committing the crime, developing an action plan.

4. Depending on the chosen plan, preparation of: devices and means of ignition: purchase of flammable substances, preparation of incendiary

mixtures, construction of ignition devices, etc.; means of arrival and departure from the scene of the incident: car, motorcycle, etc.

5. In the event of a criminal offense in a group – selection of participants and distribution of roles.

6. Taking measures to conceal traces of the crime.

The stages of preparation for committing arson can take a lot of time and be thought out in detail, or they can be spontaneous (for example, limited to buying an incendiary mixture for a fire and matches).

The method of direct commission of a crime consists in active actions to implement criminal intent. Such actions, when the criminal comes into direct contact with the object, usually occur in a short period of time, but sufficient for the criminal to be able to make sure of the implementation of his intention. Direct ignition of an object may be accompanied by additional actions that contribute to the commission of a crime. For example, breaking lighting devices around the object, disabling surveillance cameras, breaking the glass of a store window with subsequent fire inside, etc. Concealment of a crime is an important element of actions to implement criminal intent and is a system of measures aimed at misleading the investigation authorities regarding circumstances that are important for the event under investigation. We agree with the opinion of S. M. Zavyalov, V. K. Veselsky and V. V. Pyaskovskiy, who divide methods of concealment into five groups: «1) methods of concealing material traces that were reflected in the surrounding environment as a result of preparing and committing a crime; 2) methods of concealing objects of encroachment and the consequences of their possession, disposal and use; 3) methods of using measures to mask and falsify traces of a crime; 4) methods of taking measures to counteract the search for the criminal; 5) methods of taking measures to counteract the establishment of the truth in general»¹⁶. From the above, it follows that concealment is carried out by destroying, concealing, masking or falsifying information obtained during the investigation both from the suspect and from other sources.

Concealment is a method that consists in not providing the investigator with information about the committed criminal offense. The characteristic features of this method are the criminal's concealment of weapons and means of arson; concealing the truth or refusing to give testimony at all; failure to comply with the investigator's lawful requirements, etc. Destruction consists in removing traces at the scene of the offense: hands, shoes, broken obstacles, containers from under the incendiary substance used, etc. Masking consists in changing the perception of persons who witnessed the crime or the investigator about the criminal nature of the actions committed and the involvement of a certain person in them. Characteristic signs of disguise are

¹⁶ Весельський В. К., Зав'ялов С. М., Пясковський В. В. Сучасні можливості використання даних про спосіб вчинення злочину в боротьбі зі злочинністю : навч. посіб. [для студ. вищ. навч. закл.]. Київ : КНТ, 2009. С. 37.

changes in the criminal's appearance: hairstyles, use of wigs, dark glasses, masks, growing a mustache or beard before committing a crime with subsequent shaving or vice versa, changing clothes, etc., which makes it difficult and even impossible for potential eyewitnesses to remember the criminal's face and further recognize him. Falsification consists in creating false information about the crime or forging the carriers of such information. It can manifest itself in intentionally leaving traces of others or objects belonging to another person at the scene of a fire. A combined method of falsification is the creation of a false alibi, that is, a misconception about the location of the criminal at the time of the arson. The listed methods of concealing traces of arson can manifest themselves both separately and in close intertwining, creating the so-called mixed methods of concealing a crime.

Based on the above, it can be concluded that the subject of the unlawful encroachment and the methods of committing the crime in the forensic characterization of the intentional destruction or damage to another's property committed by arson occupy a key place. Information on the subject of the criminal encroachment allows you to establish the nature, features of the lost property and the amount of damage caused. Information on the subject of the encroachment is important in establishing the method of committing the crime, clarifying the motives of criminal behavior and the characteristics of the offender himself. The methods of committing the crime, which resulted in the occurrence of a fire, occupy a key place in the structure of the forensic characterization of crimes of this category. When organizing arson with the aim of destroying or damaging another's property, criminals used mainly full-structure methods, consisting of preparing, committing and concealing the crime.

2. Features of the investigation of intentional destruction or damage to someone else's property committed by arson

Investigation of criminal offenses is a complex cognitive process, during which the investigator consistently solves the task at each stage. Collecting information about the criminal offense and its participants, he gradually approaches the main goal – the completion of the pre-trial investigation and making a decision in accordance with the requirements of the law. One of the principles of forensic methodology is the sequence of actions during the collection of evidence, which is based on scientific provisions and practical recommendations that help organize the investigation of various types of offenses. Another important principle is situationality and phasing, when the investigator assesses the circumstances, determines the task, makes tactical decisions, applies appropriate methods and obtains a result that affects the development and resolution of a new investigative situation.

Traditionally, the investigation is divided into three stages: initial, subsequent (further) and final. However, scientists note that in modern

conditions this periodization needs to be revised. In particular, it is proposed not to single out the final stage separately, since it is mostly characterized by organizational work, which includes the analysis of evidence, systematization of materials and making a decision to complete the investigation in accordance with Article 283 of the Criminal Procedure Code of Ukraine¹⁷. However, scientists are unanimous in defining the initial stage of the investigation as the most significant. That is why the development of an algorithm for the investigator's actions at this stage is the task of any forensic methodology.

The investigation of criminal offenses is a complex cognitive process, during which the investigator consistently solves the task at each stage. By collecting information about the criminal offense and its participants, he gradually approaches the main goal – the completion of the pre-trial investigation and making a decision in accordance with the requirements of the law. One of the principles of forensic methodology is the sequence of actions during the collection of evidence, which is based on scientific provisions and practical recommendations that help organize the investigation of various types of offenses. Another important principle is situationality and phasing, when the investigator assesses the circumstances, determines the task, makes tactical decisions, applies appropriate methods and obtains a result that affects the development and resolution of a new investigative situation. Traditionally, investigations are divided into three stages: initial, subsequent (further) and final. However, scientists note that in modern conditions this periodization needs to be revised. In particular, the final stage is proposed not to be highlighted separately, since it is mostly characterized by organizational work, which includes the analysis of evidence, systematization of materials and making a decision to complete the investigation in accordance with Article 283 of the Criminal Procedure Code of Ukraine. However, scientists are unanimous in defining the initial stage of the investigation as the most significant. That is why the development of an algorithm of the investigator's actions at this stage is the task of any forensic methodology.

Deliberate destruction or damage to another's property committed by arson is one of the dangerous crimes. The threat of arson is becoming particularly relevant in the current conditions of Russia's military aggression against our country. The purpose of arson can be not only the destruction or damage to the property of citizens, but also an encroachment on the foundations of public safety and order, the authority of state authorities and local self-government bodies, the property of certain categories of citizens: law enforcement officers, military personnel, journalists. The above and the data of forensic practice indicate the relevance of developing forensic recommendations on the methodology for investigating the deliberate destruction or damage to another's property committed by arson in general, and at the initial stage of the investigation in particular.

¹⁷ Кримінальний процесуальний кодекс України від 13 квітня 2012 року № 4651-VI. URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text>

The investigation stage, according to the definition of A. F. Volobuyev, is an intermediate point of the investigation, which characterizes the state of the investigation from the point of view of solving its tasks and is determined by the procedural decisions taken¹⁸. O. V. Pchelina considers the investigation stage as «a separate period of time within which, under specific conditions of the investigation, a system of actions is used aimed at solving common tactical tasks (both strategic and intermediate) of the investigation»¹⁹. As we noted above, most scientists distinguish the initial and subsequent stages of the investigation. R. L. Stepaniuk believes that the initial stage begins from the moment of the start of the pre-trial investigation and continues until all possible investigative (search) actions determined by the investigative situation are performed, and the subsequent stage is until the pre-trial investigation is fully completed. The stages of the investigation are of significant importance for forensic methodology and should be divided according to forensic criteria based on the information available at a certain moment of the investigation regarding the crime and the availability of data regarding the suspect's identity, which, in turn, affects the formation of investigative situations and, accordingly, the tasks to be solved for each of them²⁰.

Most scientists pay attention to the initial stage of the investigation, because the data obtained at this stage largely determine the list and success of actions at the next stage and affect the solution of the tasks of the entire investigation. The characteristics of the initial stage are: the presence of insufficient information about the crime; a significant number of versions to be verified; insufficient time to conduct investigative (detective) actions, etc. The above generally affects the formation of the tasks and functions of this stage, the implementation of which is mandatory for conducting procedural actions at a later stage. According to O. V. Luskatov, at the initial stage of the investigation, the following actions must be performed: put forward all possible real versions of the event and measures to verify them; plan investigative (detective) and covert investigative (detective) actions; perform part or all, if possible, planned actions; collect and secure evidence that may be lost; take measures to identify, search for and detain suspects; begin collecting data characterizing the identity of suspects; to take measures to compensate for material damage caused by a criminal offense; to identify the causes and conditions that contributed to the commission of the offense. Investigative (search) actions and other measures at the initial stage, as a rule,

¹⁸ Волобуев А. Ф. Наукові основи комплексної методики розслідування корисливих злочинів у сфері підприємництва : дис. ... доктора юрид. наук : 12.00.09. ХНУВС. Харків, 2001. С. 185.

¹⁹ Пчеліна О. В. Теоретичні основи формування та реалізації методики розслідування злочинів у сфері службової діяльності : монографія. Харків : ТОВ «В справі», 2017. С. 247.

²⁰ Степанюк Р. Л. Криміналістичне забезпечення розслідування злочинів, вчинених у бюджетній сфері України : монографія ; за заг. ред. д-ра юрид. наук проф. А. Ф. Волобуєва. Х.: Ніка Нова, 2012. С. 121.

are urgent, exploratory in nature, are characterized by density, intensity, and a high pace of organization and conduct²¹.

The tasks of the initial stage of the investigation, according to A. F. Volobuyev, which we agree with, are: establishing the time, place and other circumstances of the criminal offense committed, its essence, as well as identifying, removing and fixing traces that may disappear or be destroyed over time under the influence of negative factors; identifying, searching for and detaining a person suspected of committing an offense or choosing a preventive measure; collecting evidence sufficient to present the person with suspicion for at least one of the episodes of criminal activity²². After receiving data confirming the involvement of a certain person in committing a criminal offense, the tasks of the initial stage are considered completed.

The investigative situation is a set of circumstances of a specific criminal offense that are established by the investigator, prosecutor or court during its disclosure, investigation and prevention. It consists of two main components: objective factors – these are circumstances already known at the time of the investigation, covering material evidence and personal sources of information; subjective factors – conditions that depend on the investigator himself: his professional level, experience, thinking, memory, state of health and psychophysiological qualities.

During the investigation, unforeseen situations may arise that require careful planning of actions and a high level of professionalism. At the same time, knowledge of typical algorithms for solving standard investigative situations developed by forensics greatly facilitates the work. Typical investigative situations are based on the scientific generalization of common features characteristic of a certain group of individual investigative situations. They are of great importance for the development of programs for investigating criminal offenses and are an integral part of forensic methodology. A specific investigative situation is a unique combination of circumstances that arises at a certain stage of the investigation. They differ from each other, they are difficult to predict and it is impossible to develop an algorithm of actions in advance, they require the development of individual versions and recommendations that take into account the peculiarities of criminal proceedings. At the same time, knowledge of algorithms of actions in typical investigative situations makes it possible to work more effectively in specific conditions. In the methodology of investigation of certain types of criminal offenses, scientists have developed typical investigative situations that relate to the investigation of crimes related to fires in general. Separately, typical investigative situations of intentional destruction or damage to

²¹ Криміналістика : підручник [К. О. Чаплинський, О. В. Лускатов, І. В. Пиріг та ін.]; 2-ге вид., переробл. і доповн. Дніпро : Дніпроп. держ. ун-т внутр. справ; Ліра ЛТД, 2017. С. 414.

²² Волобуєв А. Ф. Проблеми методики розслідування розкрадань майна в сфері підприємництва. URL : http://www.adhdportal.com/book_2772_chapter_17_3.1_Ponjattja_sldcho_situa_taetapu_rozsliduvannja_khrol_v_pobudov_okremo_metodiki_rozsliduvannja.html

property committed by arson were not considered. This is partly reasonably explained by the fact that at the beginning of the investigation it is sometimes very difficult to establish that the offense was committed by arson, and not in another way. The most common typical investigative situations related to establishing the fact of the obviousness of the offense are defined by M. V. Saltevs'kyi: 1) the cause of the fire is obvious, established on the basis of the «trace picture» (property was destroyed, people suffered damage); 2) the cause of the fire is not obvious and requires establishment during the preliminary investigation²³. V. O. Konovalova also identifies two typical investigative situations: «a) there is data on the event of the crime and the method of its commission, the identity of the perpetrator is unknown; b) there is data on the event of the crime, but the method of its commission and the identity of the perpetrator are unknown»²⁴. Based on the analysis of primary information about the fire, V. V. Kolesnikov identifies the following typical investigative situations: a) primary information about the fire contains reliable data on signs (traces) of arson; b) primary information about the fire contains reliable data that it arose as a result of improper behavior of people, while it remains unclear whether these actions were intentional or careless; c) primary information about the fire does not contain reliable data that it arose as a result of the «human factor»²⁵. The same typical investigative situations are identified by the authors of the manual of the National Academy of Internal Affairs²⁶.

Taking into account the above opinions of scientists, the results of studying the materials of forensic and investigative practice, the following typical investigative situations of the initial stage of the investigation of intentional destruction or damage to someone else's property committed by arson can be distinguished:

1. There are signs of a criminal offense, but the identity of the perpetrator is unknown, there is no information about him, there are no witnesses, eyewitnesses.

2. There are signs of a criminal offense, the identity of the perpetrator is unknown, there are witnesses, eyewitnesses, there is information about the appearance of the perpetrator and the direction of his departure from the scene.

3. There are signs of a criminal offense, there is reliable information about the identity of the perpetrator, but he has not been detained and is hiding from the investigation.

²³ Салтевський М. В. Криміналістика (у сучасному викладі): Підручник. К.: Кондор, 2005. С. 541.

²⁴ Настільна книга слідчого: наук.–практ. видання для слідчих і дізнавачів. [М. І. Панов, В. Ю. Шепітько, В. О. Коновалова та ін.]. 2–ге вид. перероб. і доп. К.: Вид. Дім «Ін Юре», 2007. С. 457.

²⁵ Криміналістика : підручник : у 2 т. Т. 2 / [А. Ф. Волобуєв, О. В. Одерій, Р. Л. Степанюк та ін.] ; за заг. ред. А. Ф. Волобуєва, Р. Л. Степанюка, В. О. Маляррової ; МВС України, Харків. нац. ун-т внутр. справ. Харків, 2018. С. 132-133.

²⁶ Особливості розслідування окремих видів злочинів: мультимедійний навчальний посібник. URL : <https://arm.naiu.kiev.ua/books/orovz/lections/lection10.html>

4. There are signs of a criminal offense, the perpetrator was detained immediately after committing the crime.

At the same time, we believe that the cause of the fire (arson) has already been finally established, or there is significant evidence indicating that arson was committed.

The first typical investigative situation arises after a complaint is received from citizens or after the fire is discovered by police officers, and at the time of the fire, only information may be available about the place of arson, time, and material values that were at the scene of the fire. In this case, there is no information about the identity of the suspect or suspects, and there are no eyewitnesses and witnesses to the event (60 % of cases). The investigator's actions in this situation should be aimed at solving the following investigation tasks: identifying the person or group of criminals, identifying eyewitnesses and witnesses to the fire, establishing the amount of property damage and a list of burned items, and establishing the method of committing arson.

Regarding the method of committing arson, the following versions are possible: the crime was committed using flammable and highly flammable liquids; substances or materials capable of spontaneous combustion were used; use of an open source of fire; technical devices for industrial and domestic purposes or specially manufactured for the commission of a crime were used. Typical versions of the identity of the perpetrator may be: persons previously convicted of committing similar crimes, namely against property and pecuniary-violent, as well as crimes against public safety; relatives, acquaintances of the victims, especially those with whom there were hostile relations; outsiders.

The following investigative (search) actions are carried out in the first investigative situation:

- inspection of the scene of the incident, during which attention is paid to identifying traces confirming the commission of a crime by arson, as well as identifying the source of ignition;
- interrogation of the victim at the scene of the incident;
- identification of witnesses, eyewitnesses by house-to-house patrol of the territory, which is entrusted to the employees of the operational units;
- appointment of fire-technical and other examinations, mainly to solve diagnostic and situational tasks, depending on the nature of the objects seized during the inspection;
- check the forensic records of previously convicted persons, especially those who have just been released and live in the area of the fire;
- interrogate the victim's family members, relatives, acquaintances;
- study solved and unsolved crimes of this category committed in this area;
- give instructions to operational officers to conduct covert investigative (search) actions, in particular, establishing the location of a radio-electronic device; audio-, video– monitoring of a place, a person; removing information from transport telecommunication electronic systems and networks.

The second and third typical investigative situations are the most favorable in relation to the first, since although the identity of the criminal is unknown,

there is certain information about him that can be obtained from witnesses, eyewitnesses (14 %). This is information about the appearance of the criminal and the direction of his movement from the scene of the incident or information about a specific person or his place of residence. Typical investigation tasks in these situations are to establish the location of the suspect, his detention; collecting evidence that refutes or confirms the suspect's involvement in the commission of the crime, as well as establishing material damage, the method, purpose and motives for committing the crime. Typical individual versions regarding the suspect's identity may be: the crime was committed by a person or persons whose information or signs are contained in the information received from witnesses; committed by other persons. The investigator's algorithms for resolving these typical investigative situations may be as follows: conduct an inspection of the fire scene; interrogate witnesses, eyewitnesses, the victim; compile a subjective portrait of the suspect based on a description of the signs and a composite photo; give instructions to the operational units to search for the criminal based on the compiled photo; provide information about the crime committed to the media, including the characteristics of the criminal's appearance; in the event of establishing a specific place of residence or possible appearance, lay ambushes in the indicated places; based on the results of the inspection, appoint a fire-technical and other necessary expertise; check the forensic records of previously convicted persons, especially those who have just been released and live in the area of the fire; give instructions to operational officers to conduct covert investigative (search) actions.

The fourth typical investigative situation is the most favorable for the investigation (26 %). In this case, the initial and subsequent stages of the investigation take place in parallel and the investigative (search) actions inherent in each of them are intertwined. Typical investigation tasks in this situation are: forming an evidentiary base to confirm or refute the suspect's guilt, establishing the suspect's possible involvement in committing other similar crimes, searching for possible accomplices, organizers or instigators, establishing the method of commission, motives and purpose of the crime. Typical versions in this case would be: the crime was committed by the detained person or other persons participated in the commission of the crime.

The list of actions of the investigator in the specified situation may be as follows: detention of the suspect, his personal search, examination of clothing; identification of the suspect; interrogation of the suspect, witnesses, eyewitnesses; inspection of the scene of the incident; search of the suspect's place of residence; investigative experiment with the suspect; appointment of necessary examinations, including those of an identification nature.

3. The impact of the investigation results on the economic consequences of the war and the significance in the post-war reconstruction of Ukraine

One of the tasks of criminal proceedings is to ensure a rapid, complete and impartial investigation. The implementation of this task is impossible without

the introduction into the practice of combating crime of modern scientific and technical means, new methods of detecting and seizing objects related to the crime, modern methods of expert research. The speed of the investigation, the completeness and quality of the collected materials of the criminal proceedings largely depend on the quantitative and qualitative indicators of providing the pre-trial investigation with modern achievements of science and technology.

One of the forms of using special knowledge and the corresponding scientific and technical means is conducting expert examinations. Let us consider certain types of expert examinations that, in our opinion, are of priority importance in the investigation of crimes committed by arson, war crimes. Their number should increase both at the present stage and after the victory and post-war reconstruction of the country.

Today, the most significant is the examination of weapons and traces and circumstances of their use. The objects of research are firearms and ammunition; traces of weapons, traces of shots and situational circumstances of shots; rocket and non-rocket grenade launchers, mortars, artillery guns; anti-tank missile systems, multiple launch rocket systems, anti-aircraft missile systems, etc. The main tasks of research include: establishing the belonging of objects to firearms or ammunition; determining their type, model and caliber; the condition of weapons, ammunition for them and their suitability for use for their intended purpose. Of particular importance is the establishment of the group affiliation of ammunition, in particular missiles, to weapons used by the aggressor country.

The examination of explosive devices, explosives and explosion products is intended to determine: the very fact of the explosion of the device at the scene, its type and power; the belonging of the object to explosive devices or ammunition, its classification and method of manufacture. Explosives expertise establishes: the object's belonging to explosives or their components; the method of manufacturing explosives; the presence of micro traces of explosives and their decomposition products on carrier objects; the source substance used for the explosion; the common generic (group) affiliation of explosives.

Engineering and technical expertise is important, namely the following types: construction and technical; fire and technical; evaluation and construction; engineering and environmental. To ensure compensation for damage caused to civil infrastructure facilities, evaluation and construction and construction and technical expertise are carried out, which determine the technical condition of buildings, structures and engineering networks, the causes of damage and destruction of facilities and their elements; the cost of construction work related to the restoration of buildings. Conducting engineering and technical expertise is currently possible only in the territory controlled by Ukraine. After the reoccupation of all territories of Ukraine, the number of valuation and construction expertise's is predicted to increase, since in order to restore destroyed buildings and structures, it is necessary to establish their value.

War crimes also include ecocide, that is, the mass destruction of flora or fauna, poisoning of the atmosphere, water resources, and other actions that can cause an ecological disaster. Among the actions committed by the Russian military, one can note the occupation of the Chernobyl nuclear power plant, which is part of the radiation-ecological biosphere reserve, when the Russian military-built trenches directly in the zone of radiological activity, not realizing the risks to themselves and the environment. A major environmental threat is the destruction of the Kakhovka hydroelectric power plant, the destruction of nature reserves and the reduction of biodiversity, the contamination of soils and water sources, as well as fires on agricultural lands, which makes their further use impossible. These facts indicate that Russia has committed ecocide on the territory of Ukraine. Given the negative impact of military operations on the environment, a significant role is played by conducting an environmental examination, which determines the impact of man-made factors on the state of the ecosystem, assesses the consequences that have occurred, and determines the amount of compensation for damages caused to the state as a result of violation of the requirements of environmental legislation; damage from environmental pollution, damage or destruction of fauna and flora objects that occurred as a result of hostilities and the use of military equipment and weapons.

When investigating war crimes and forming an evidentiary base with the prospect of considering cases in international courts, the Berkeley Protocol has become widely used, which contains recommendations on the use of digital information that is in the public domain. During the investigation, OSINT (Open source intelligence) technologies are also used to obtain operational information, which include: search and registration of information, its analysis, analytical and synthetic processing, storage, distribution and protection of information. Primary information from open sources after its analytical and synthetic processing can become a source of evidence in criminal proceedings. Portrait examination plays a significant role in this, since a significant part of the information is stored in the form of photographs and video recordings of persons involved in the commission of crimes. The military of the Russian Federation in most cases use social networks and other Internet resources to exchange information with their friends, posting photographic materials taken in the combat zone. The leadership of military formations can participate in television programs, commenting on events, in public speeches, thereby documenting their illegal activities. The question arises of their identification and joining the evidence obtained to the materials of criminal proceedings. Questions may also arise related to the identification of images of our military who died or are in captivity. The main task of portrait examination is to identify a person or a corpse from a photograph and video recording. Comparative materials for identifying a person from a photograph can be photographs and video

recordings of this person, close to the subject in terms of the time of shooting and the angle of the image²⁷.

Our analysis of expert activity in the investigation of war crimes has established a significant increase in the number and diversity of examinations that are being conducted today and will be conducted in the near future. The increase in the number of examinations in certain areas raises the problem of staffing for forensic expert activity. The shortage of personnel is already felt today, which in turn affects the timing of examinations.

CONCLUSIONS

Criminal offenses related to the intentional destruction or damage of property committed by arson are one of the sources of threats to the national security of the state and cause significant damage not only to the relations of society regarding property, but also endanger other areas of activity of citizens of Ukraine, violating their constitutional rights guaranteed by the state. In the current conditions of the war with Russia, specially organized and prepared arson of other people's property has become a sufficiently developed means of psychological influence and causing harm for the purpose of extortion, disruption of the normal operation of economic facilities, to eliminate competitors in the commercial sphere, to obtain unjustified compensation for property losses, etc. Taking into account the above, there are reasons to believe that such a method of influencing people, based on damaging other people's property by arson, will take place in the present and develop in the future. That is why it is important to improve the investigation of such offenses, namely, to increase the organizational foundations of investigative activities and the effectiveness of investigative (detective) and other procedural actions.

The forensic characteristic is one of the components of the methodology for investigating certain types of criminal offenses. It contains information about the criminal offense as a whole and its individual elements. The subject of the unlawful act and the methods of committing the crime in the forensic characteristic of intentional destruction or damage to someone else's property committed by arson occupy a key place. Information about the subject of the criminal act allows you to establish the nature, features of the lost property and the amount of damage caused. Information about the subject of the act is important in establishing the method of committing the crime, clarifying the motives of criminal behavior and the characteristics of the offender himself. The methods of committing the crime, which resulted in the occurrence of a fire, are also the main ones in the structure of the forensic characteristic of crimes of this category. When organizing arson attacks with the aim of destroying or damaging someone else's property, criminals used mainly full-

²⁷ Про затвердження Інструкції про призначення та проведення судових експертиз : Наказ Міністерства юстиції України № 53/5 від 08.10.1998 р. URL: <http://zakon4.rada.gov.ua/laws/show/z0705-98>.

structure methods, consisting of preparing, committing and concealing the crime.

The investigation process is divided into initial and subsequent (further) stages, which fundamentally differ in the tasks solved at each of them, as well as tactical techniques and means of solving them. At the initial stage of the investigation, the data obtained largely determine the list and success of actions at the next stage and ultimately affect the solution of the tasks of the entire investigation. During the investigation, many investigative situations may arise, the solution of which depends on the investigator making the right tactical decisions. Typical investigative situations are based on the scientific generalization of common features characteristic of a certain group of individual investigation situations. They are distinguished in the theory of criminalistics and are of great importance, since for each of them an algorithm of actions of the investigator is developed to solve them.

The conclusions of the expert examination are a significant means of proof in the investigation of any criminal offense, including war crimes and those committed by arson. In addition, the importance of the expert examination in modern conditions is increasing, since crimes committed on the territory of Ukraine will be considered not only by Ukrainian courts, but also by international ones, in particular by the International Criminal Court. The process of investigating war crimes is complex, and the requirements for submitting materials to the International Criminal Court are quite high, so the evidence that Ukraine will provide to the court must be convincing. That is why the quality of the investigation of criminal offenses affects the degree of punishment of criminals and ensures compensation for losses, including in the form of reparations, which will significantly contribute to the post-war reconstruction of the economy of Ukraine.

SUMMARY

Deliberate destruction or damage to property committed by arson is a criminal offense that threatens the national security of the state and causes significant damage not only to the relations of society regarding property, but also jeopardizes other areas of activity of citizens of Ukraine, violating their constitutional rights guaranteed by the state. In modern conditions of martial law, the use of means of warfare prohibited by international law, other violations of the laws and customs of war lead to the occurrence of fires and the destruction by fire of critically important infrastructure facilities of our country.

The publication considers the methodology for investigating deliberate destruction or damage to property committed by arson, namely the forensic characterization as a component of the methodology and the activities of the investigator at the initial stage of the investigation. Certain types of examinations are considered that are of priority importance in the investigation of crimes committed by arson and war crimes, and their number should increase both at the present stage and after the victory and post-war reconstruction of the country. It is noted that the quality of criminal

investigation affects the degree of punishment of criminals and ensures compensation for damages, including in the form of reparations, which will significantly contribute to the post-war reconstruction of the Ukrainian economy.

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