Proving Property Damage in Economic Criminal Offenses

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The primary concerns of this paper are to define peculiarities of proving property damage in the course of pre-trial investigation into economic criminal offenses. It is demonstrated that proving property damage in economic criminal offenses is an obligatory component of criminal procedure. According to these types of criminal offenses, evidence collection falls within the investigator's competency. However, certain studies are the exclusive domain of forensic experts, specialists, auditors, etc. The damage resulting from a criminal offense should be proven in criminal proceedings. It is also vital to introduce a set of compensation (indemnification) measures both at the pre-trial stage and during the criminal trial. Under the general rule, tangible and intangible benefits shall be indemnified or compensated for in criminal proceedings. During the pre-trial investigation stage, documents are collected, witnesses, victims, and suspects are interrogated, and forensic examinations are initiated to verify the occurrence of property damage. The choice of a particular measure depends on the stage of criminal proceedings, peculiarities of the investigative situation, and realization that the planned measure's purpose can be fulfilled under these conditions. The author outlines some aspects of proving property damage in economic criminal offenses, for most of which it is of decisive importance in the context of criminal law assessment. Our subsequent research will focus on the legal, organizational, and tactical principles involved in collecting evidence of property damage during the pre-trial investigation of economic crimes.

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Keywords: *criminal offense; economic activity; proving; evidence; property damage; procedural action; forensic examination.*

Research Problem Formulation

Protection of human and citizen's rights and freedoms is a primary task of the State, towards the fulfillment of which the activities of all its institutions must be directed. Restoration of violated rights should naturally follow a dispute resolution process that has negatively impacted a person's property status. Socially dangerous consequences of committing a crime, such as property damage, are the basis for enforcing a number of criminal procedural measures to compensate a victim for this damage.

Criminal offenses in economic activity involve a variety of encroachments on social relations (which, in turn, are associated with introduction and maintenance of the circulation of funds and securities), the legal system of taxation, budgetary and currency regulation procedures, the procedure for moving goods across the customs border as well as on conducting business activities stipulated by the legislator [1]. This group of criminal offenses is quite numerous, and they share common features. One of these features is inflicting harm on a person, society, or the State. Stemming from the above, scientists differentiate between independent types of crimes and criminal offenses within the category of economic criminal offenses, such as:

1) committed during activities related to circulation of money, securities, and other documents;
2) involving a violation of the procedure for moving items across the customs border of Ukraine, as stipulated by the customs rules;
3) committed in the course of privatization of state and municipal property;
4) related to unlawful acts in taxation and compulsory state social insurance;
5) committed in the context of ensuring fair competition;
6) encroaching on public relations in stock market operations;
7) committed in the field of ensuring the procedure for engaging in entrepreneurial or other economic activities;
8) committed in the budgetary sphere;
9) related to securing creditors' rights [2].

The mechanism of committing the majority of criminal offenses presupposes implementation of a set of actions that include transactions, financial transactions, etc., that inevitably cause property damage. Thus, for specific criminal offenders, the legislator has established causing damage as a qualifying circumstance. Specifically, Pt. 3 of Art. 206 of the Criminal Code of Ukraine (*CC of Ukraine*) envisages

1 Дудоров О. О. Злочини у сфері господарської діяльності: особливості кримінальної відповідальності. *Вісник Асоціації кримінального права України*. 2014. № 1 (2). С. 169—175. URL: http://dudorov.com.ua/images/download/stattya-zlochini-u-sferi-gospodarskoji-diyalnosti.pdf (date accessed: 30.04.2025).

2 Винник А. О., Мармура О. З., Пасєка О. Ф. Кримінальні правопорушення у сфері господарської діяльності (в схемах) : навч. посіб. / за ред. О. Ф. Пасєки. Львів, 2023. С. 6. URL: https://dspace.lvduvs.edu.ua/bitstream/1234567890/5342/1/gospprav.pdf (date accessed: 13.04.2025).

responsibility for obstructing legitimate economic activity, which caused heavy damage [3]. Illegal seizure of property of an enterprise, institution or organisation (Art. 206-2 of the CC of Ukraine) by the subject leads to the use of these material objects for his/her own benefit or for the benefit of third parties. It lays the groundwork for the free disposal of this property [4].

Legalisation (laundering) of property proceeding from crime or terrorist financing (Arts. 209 and 258–5 of the Criminal Code of Ukraine) significantly harms individuals' rights and freedoms, along with the interests of the State, public, and legal entities protected by law [5].

Evasion of taxes, duties or other compulsory payments under Art. 212 of the CC of Ukraine results in significant budget or state trust fund losses. Criminal liability for evasion of payment of unified contribution for compulsory state social insurance and contributions for compulsory state pension insurance under Article 212-1 of the CC of Ukraine is triggered by the failure to transfer significant amounts of assets to the relevant funds [6].

Inflicting substantial material harm to the State or a creditor is the basis for imposing liability. Sustained financial insolvency (bankruptcy) takes place in the event of causing a business entity to go bankrupt, resulting in substantial material damage to the State or a creditor.

Pt. 4 of Art. 220-1 of the CC of Ukraine sets forth liability for violation of the procedure for maintaining a database of depositors or the procedure for reporting. This has led to an illegal increase in the Deposit Guarantee Fund's expenses related to a bank's withdrawal from the market [7]. Numerous material consequences occur due to manipulation in organized markets. These include causing significant damage to the rights, freedoms, and interests of individuals protected by law, or to the State or public interests, or to the interests of legal entities. They also include obtaining significant profits by individuals or third parties and preventing major losses by such persons [8]. Similar consequences are mandatory in case of Illegal use of insider information (Art. 232-1 of the CC of Ukraine) [9].

The same applies to the illegal use of insider information regarding wholesale energy products (Art. 232-3 of the Criminal Code of Ukraine), as this act entails the following consequences:

1) obtaining unjustified and substantial financial gain by a person who committed relevant actions or by other persons;
2) avoiding significant financial losses by the wholesale energy market participant or third parties;
3) inflicting significant harm to the rights, freedoms, or legitimate interests of individuals, as well as to state, public, or corporate interests protected by law [10].

Causing a considerable material harm is the basis for qualifying the actions of a person according to:

3 Кримінальний кодекс України від 05.04.2001 р. № 2341-III (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/2341-14#Text (date accessed: 13.04.2025).
4 Там само.
5 Там само.
6 Там само.
7 Там само.
8 Там само.
9 Там само.
10 Там само.

1) signs of forgery of documents submitted for registration of securities;
2) concealment of information regarding an issuer's activities (Art. 232-2 of the CC of Ukraine);
3) tasks of substantial material damage[11].

Substantial damage to an economic entity constitutes a component of the objective element in the following criminal offenses:

1) Illegal Collection for the Purpose of Use or Use of Information That Constitutes Banking or Trade Secrets (Art. 231 of the CC of Ukraine);
2) Disclosure of Commercial, Banking, or Professional Secrets in Capital and Organized Commodity Markets (Art. 232 of the CC of Ukraine)[12], etc.

Many crimes involving economic activity are characterized by socially dangerous consequences, such as property damage (in particular, losses, loss of profits, etc.)[13]. This makes the task of proving this fact relevant and, undoubtedly, requires collecting relevant evidence, and this, obviously, is impossible without competent support from individuals well-versed in economics, finance, accounting, etc., and criminal procedural activity of the accused's representatives.

Article Purpose

Define peculiarities of property damage proving during the pre-trial investigation of criminal offenses related to economic activity.

Research Methods

The study's methodological basis general scientific, special, and philosophical methods of scientific cognition, which collectively have provided a comprehensive, consistent, and sound coverage of issues associated with property damage proving in criminal proceedings involving economic activity.

The system-structural approach helped consider evidence as an integral part of criminal process, determine its components, and identify how they are interrelated during the pre-trial investigation and trial.

The dialectical method enabled the study of legal phenomena as they develop and interrelate. This is especially important for considering changes in approaches to proving harm in economic criminal offenses.

The systemic-functional method made it possible to assess the functional purpose of certain procedural institutions (e.g., a civil action in criminal proceedings) in the context of fulfilling the goal of compensation for harm.

Formal logic methods—analysis, synthesis, induction, deduction, analogy, modeling—were used to form reasoned judgments, formulate logically consistent conclusions, and create classification approaches to forms and methods of evidence collection.

The legal and dogmatic method was applied to analyze the legal regulations governing the procedure for determining and proving property damage, as well as defining the powers of investigators, prosecutors, and judges in this area.

The interpretive method clarified the meaning of legal provisions concerning the right to compensation for damages in

11 Кримінальний кодекс … . URL: https://zakon.rada.gov.ua/laws/show/2341-14#Text (date accessed: 13.04.2025)..

12 Там само.

13 Винник А. О., Мармура О. З., Пасєка О. Ф. Зазнач. твір. 160 с. URL: https://dspace.lvduvs.edu.ua/bitstream/1234567890/5342/1/gosppravpdf (date accessed: 13.04.2025).

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criminal proceedings by considering case law and doctrinal interpretations.

Analysis of Essential Researches and Publications

Monographs by V. Didenko [14], H. Dondyk [15], N. Dondyk [16], Yu. Kovalov [17], I. Petrova [18], I. Pyrih [19], O. Semeniuk [20], E. Simakova-Yefremian [21], O. Shevchenko [22] O. Shramko [23], M. Shcherbakovskyi [24], et al., have covered various aspects of applying specific expertise in criminal proceedings, which are typical for guaranteeing the implementation of proving in economic criminal offenses. The majority of the aforementioned authors aimed to develop the regulatory and legal principles of using procedural and non-procedural forms of applying specific expertise during the pretrial investigation of certain types of crimes involving economic activity. The authors have formulated the *specific expertise* concept with due regard for its sectoral distribution, outlined the legal, tactical, and organizational forms of its application during the pre-trial investigation of certain types and groups of criminal offenses, and described the functions and main areas of specialists' activities, considering their specialization.

14 Діденко В. Л. Використання спеціальних знань при розслідуванні кримінальних правопорушень у бюджетній сфері : дис. ... канд. юрид. наук. Дніпро, 2024. 238 с. URL: https://dduvs.edu.ua/wp-content/uploads/files/Structure/science/rada/new_d0872702/2024/1/1/d.pdf (date accessed: 20.04.2025).

15 Дондик Г. П. Використання спеціальних бухгалтерських знань при розслідуванні злочинів у сфері сільськогосподарського виробництва : дис. ... канд. юрид. наук. Дніпропетровськ, 2011. 256 с.

16 Дондик Н. Я. Використання спеціальних бухгалтерських знань при розслідуванні економічних злочинів : дис. ... канд. юрид. наук. Харків, 2006. 208 с.

17 Ковальов Ю. Ю. Використання спеціальних знань під час розслідування корупційних злочинів : дис. ... д-ра філос. у галузі права. Харків, 2021. 251 с. URL: https://uacademic.info/ua/document/0821U100819 (date accessed: 20.04.2025).

18 Петрова І. А. Теоретико-правові та організаційно-методологічні засади регулювання судово-товарознавчих експертиз споживчих товарів : дис. ... д-ра юрид. наук. Харків, 2012. 541 с. URL: https://uacademic.info/ua/document/0512U000231 (date accessed: 01.05.2025).

19 Пиріг І. В. Теоретико-прикладні проблеми експертного забезпечення досудового розслідування : монографія. Дніпропетровськ, 2015. 368 с. URL: https://dduvs.edu.ua/wp-content/uploads/files/Structure/library/student/monogr.pdf (date accessed: 01.05.2025).

20 Семенюк О. А. Використання спеціальних знань під час розслідування привласнення, розтрати майна або заволодіння ним шляхом зловживання службовим становищем : дис. ... д-ра філос. у галузі права. Київ, 2024. 253 с. URI: https://elar.navs.edu.ua/handle/123456789/29848 (date accessed: 01.05.2025).

21 Сімакова-Єфремян Е. Б. Теоретико-правові та методологічні засади комплексних судово-експертних досліджень : дис. ... д-ра юрид. наук. Харків, 2017. 392 с. URL: https://uacademic.info/ua/document/0517U000760 (date accessed: 01.05.2025).

22 Шевченко О. В. Використання спеціальних товарознавчих знань під час досудового розслідування : дис. ... канд. юрид. наук. Київ, 2017. 317 с.

23 Шрамко О. М. Використання спеціальних знань під час розслідування корупційних кримінальних правопорушень : дис. ... д-ра філос. у галузі права. Київ, 2021. 269 с. URL: https://uacademic.info/ua/document/0821U102258 (date accessed: 01.05.2025).

24 Щербаковський М. Г. Теоретико-методологічні та праксеологічні засади судових експертиз у кримінальному процесі : автореф. дис. ... д-ра юрид. наук. Харків, 2016. 40 с. URI: http://dspace.univd.edu.ua/xmlui/handle/123456789/2582 (date accessed: 01.05.2025).

Certain aspects of investigating and proving criminal offenses related to economic activity are discussed in research papers by: T. Barabash [25], A. Volobuiev [26], V. Husieva and V. Kikinchuk [27], O. Kurman [28], H. Mudretska [29], R. Stepaniuk [30], S. Tiulieniev [31], S. Trach [32], etc.

Furthermore, the issue of assessing harm inflicted on the injured party by a criminal offense is analyzed in criminal procedure studies, specifically in monographs by V. Vasyliev [33], I. Vorobiov [34], D. Liubeznikov [35], R. Koriakin [36], A. Stiebieliev [37], I. Tataryn [38], et al.

25 Барабаш Т. М. Предмет доказування у кримінальних справах про ухилення від сплати податків, зборів, інших обов'язкових платежів : дис. ... канд. юрид. наук. Київ, 2003. 215 с.

26 Волобуєв А. Ф. Наукові основи комплексної методики розслідування корисливих злочинів у сфері підприємництва : дис. ... д-ра юрид. наук. Харків, 2001. 407 с. URL: https://uacademic.info/ua/document/0502U000216 (date accessed: 01.05.2025).

27 Кікінчук В. В. Методика розслідування злочинів, пов'язаних з використанням бюджетних коштів в агропромисловому комплексі : автореф. дис. ... канд. юрид. наук. Дніпропетровськ, 2014. 21 с. URL: https://dspace.nlu.edu.ua/bitstream/123456789/14147/1/Kikinchuk_2014.pdf (date accessed: 01.05.2025) ; Кікінчук В. В., Гусєва В. О. Особливості розслідування кримінальних правопорушень, пов'язаних з протиправним поглинанням та захопленням підприємств, сільськогосподарських земель, порушенням прав їх законних власників (рейдерство) : наук.-метод. рек. Харків, 2020. 58 с. URL: http://dspace.univd.edu.ua/xmlui/handle/123456789/9813 (date accessed: 01.05.2025).

28 Курман О. В. Методика розслідування шахрайства з фінансовими ресурсами : дис. ... канд. юрид. наук. Харків, 2002. 218 с. URL: https://uacademic.info/ua/document/0402U002349 (date accessed: 01.05.2025).

29 Мудрецька Г. В. Методика розслідування викрадень бюджетних коштів : автореф. дис. ... канд. юрид. наук. Ірпінь, 2011. 17 с.

30 Степанюк Р. Л. Теоретичні засади методики розслідування злочинів, вчинених у бюджетній сфері України : дис. ... д-ра юрид. наук. Харків, 2012. 475 с.

31 Тюлєнєв С. А. Можливості почеркознавчої експертизи у розслідуванні рейдерства. *Вісник Одеського науково-дослідного інституту судових експертиз Міністерства юстиції України.* 2023. Вип. 14. С. 29—41. DOI: 10.32782/2522-9656/2024-14-3 (date accessed: 05.05.2025) ; Його ж. Призначення судових експертиз під час розслідування кримінальних правопорушень, пов'язаних із рейдерством. *Право і безпека.* 2024. № 1 (92). С. 112—122. DOI: 10.32631/pb.2024.1.10 (date accessed: 05.05.2025).

32 Трач С. С. Криміналістична методика розслідування кримінальних правопорушень у сфері господарської діяльності в Україні : монографія. Одеса, 2023. 452 с.

33 Васильєв В. В. Правове регулювання відшкодування шкоди, завданої злочином : автореф. дис. ... канд. юрид. наук. Харків, 2016. 20 с. URI: https://dspace.nlu.edu.ua/handle/123456789/9997 (date accessed: 01.05.2025).

34 Воробйова І. А. Забезпечення та вирішення цивільного позову в кримінальному провадженні : автореф. дис. ... канд. юрид. наук. Запоріжжя, 2016. 20 с.

35 Любезніков Д. О. Досудове відшкодування заподіяної шкоди кримінальним правопорушенням : дис. ... д-ра філос. у галузі права. Ірпінь, 2024. 243 с. URL: https://surl.li/dpqxab (date accessed: 01.05.2025).

36 Корякін Р. В. Реституція у сучасному кримінальному процесі України : автореф. дис. ... канд. юрид. наук. Київ, 2006. 20 с.

37 Стєбєлєв А. М. Правове регулювання відшкодування (компенсації) шкоди у кримінальному процесі України : дис. ... канд. юрид. наук. Харків, 2016. 204 с. URI: https://ekhnuir.karazin.ua/handle/123456789/12500 (date accessed: 01.05.2025).

38 Татарин І. І. Забезпечення відшкодування шкоди, заподіяної кримінальним правопорушенням, на досудовому розслідуванні : дис. ... канд. юрид. наук. Львів, 2015.

Despite the notable work of scholars, we must admit that property damage proving in the context of pre-trial investigation of crimes related to economic activity has not yet been covered in the scientific field. Therefore, research on this issue and in this specific area should be further enhanced.

Main Content Presentation

As set forth in the provisions of the Criminal Procedure Code of Ukraine, the law guarantees the right to compensation for damages to the victim and the civil plaintiff as one of the legal safeguards it stipulates. The civil plaintiff enjoys the same rights and responsibilities as the victim, but only in matters concerning the initiation and review of the civil action: he/she is within his/her rights to support his/her request for compensation and to refuse it until the court retires to the deliberation room to render a decision. Therefore, in criminal proceedings, the civil plaintiff—similar to the victim—has the right to demand compensation for harm inflicted as a result of a criminal offense [39]. The development of legal approaches to the practical resolution of these issues in the application of law took place over a long period of time. This is confirmed by the provisions of the Resolutions of the Plenum of the Supreme Court of Ukraine from 1989 to 1995: *The Practice of Ukrainian Courts in Applying Legislation on Compensation for Material Damage Caused by a Crime and Confiscation of Unjustly Acquired Property* [40]; *On Practice of Considering Civil Cases Concerning Actions on Compensation for Damage* [41]; *On Court Practice in Cases of Compensation for Moral (Non-Pecuniary) Damage* [42], etc. These documents play a pivotal role in the formation of a single judicial practice and a legal approach to the consideration of issues involving compensation for material and immaterial damage resulting from a crime, but most of these provisions are outdated and do not clearly define the procedures for proving property damage from economic criminal offenses.

Generally speaking, tangible and intangible benefits shall be indemnified or compensated for in criminal proceedings. According to legal literature, compensation should encompass the following components: damages, physical and mental suffering (if a criminal offense was committed against an individual); lost opportunities (lost profits). There are action-based and non-action-based forms of compensation for damage. When it comes to compensation mechanisms, it is important to note that each one, whether it is voluntary compensation by a person who caused damage, compensation by

220 с. URL: https://uacademic.info/ua/document/0416U001222 (date accessed: 01.05.2025).

39 Кримінальний процесуальний кодекс України від 13.04.2012 р. № 4651-VI (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 01.05.2025).

40 Про практику застосування судами України законодавства про відшкодування матеріальної шкоди, заподіяної злочином, і стягнення безпідставно нажитого майна : постанова Пленуму ВСУ від 31.03.1989 р. № 3 (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/v0003700-89#Text (date accessed: 01.05.2025).

41 Про практику розгляду судами цивільних справ за позовами про відшкодування шкоди : постанова Пленуму ВСУ від 27.03.1992 р. № 6 (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/v0006700-92#Text (date accessed: 01.05.2025).

42 Про судову практику в справах про відшкодування моральної (немайнової) шкоди : постанова Пленуму ВСУ від 31.03.1995 р. № 4 (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/v0004700-95#Text (date accessed: 01.05.2025).

third parties on his/her behalf, applicability of restitution, or introduction of the civil action institution, should aim to fully and equitably restore all types of damage resulting from a crime.

In criminal proceedings, the damage caused by a criminal offense must be proven. Within the framework of criminal proceedings, a set of required measures for indemnification (compensation) must be implemented both at the pre-trial investigation stage and during the criminal trial [43].

Proving the fact that property damage has been inflicted on an individual or legal entity as a result of an economic criminal offense is a mandatory circumstance of investigation, as this damage is crucial for a person to acquire the status of a victim in criminal proceedings. This fact is confirmed by various pieces of evidence: legislation only provides a mechanism for clarifying some of these facts. Particularly, assessing the volume of material damage resulting from a criminal offense is an obligatory circumstance for the appointment of a forensic examination only if a victim cannot assess it and has not provided a document confirming the amount of such damage [44].

At the stage of receiving an application on the commission of one of economic criminal offenses or a certain group of crimes and criminal offenses (before and during the entry of information into the Unified Register of Pre-trial Investigations [45]), the inquiring officer, detective, investigator, or head of the pre-trial investigation authority are entitled to perform the following actions (in order to determine the amount and nature of property damage resulting from a criminal offense):

1) to direct requests to competent authorities, as well as officials of enterprises, institutions and organizations in order to obtain information necessary for determining the type, volume, and nature of the damage inflicted;
2) to receive explanations disclosing circumstances of an event (in which information about the size and nature of the loss should be detailed to the greatest extent possible), to receive and attach to the request concerning the commission of a criminal offense documents and other sources of information confirming circumstances outlined in the application.

Interrogation (takes place after the opening of criminal proceedings) of a victim or a victim's representative, if it is a legal entity, is aimed at revealing information about:

- damage inflicted;
- the owner (holder) of the assets in respect of whom the encroachment was committed;
- all owners (co-owners) of such assets;
- name, quantity, individual, and total cost of stolen goods;
- characteristic features of assets that will allow for their further identification;
- property ownership form: whether it belongs directly to the victim, another individual, a legal entity, a state or communal institution, a public association, a joint-stock company, a bank, etc. This approach provides

43 Любезніков Д. О. Зазнач. твір. С. 38. URL: https://surl.li/dpqxab (date accessed: 01.05.2025).
44 Кримінальний процесуальний кодекс … . URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 01.05.2025).
45 Єдиний реєстр досудових розслідувань : вебсайт. URL: https://erdr.gp.gov.ua/erdr/erdr.web.system.LoginPage.cls (date accessed: 01.05.2025).

qualitative documentation of material damage at the early stage of investigation and lays the groundwork for subsequent civil action or compensation for the damage caused.

At the initial stage of investigating an economic criminal offense, representatives of the pre-trial investigation authority possess the right to add the results of inspections conducted by authorized persons to criminal case files. These may include supplements, financial and accounting documents indicating the specific amounts of property damage caused as a result of criminal offense, audit reports, expert and specialist opinions, documents showing the amount of damage, etc.

The prosecution may obtain temporary access to certain information that constitutes a legally protected secret on the basis of a relevant ruling. Furthermore, when all the necessary information is lacking, additional documents and items containing information about specific volumes of property damage can be requested by the investigator from officials.

The prosecution party's representative possesses the right to appoint a forensic examination, to participate in its conduct, and to obtain the expert's opinion. Accordingly, in proceedings on economic criminal offenses, a forensic economic examination is appointed to accomplish the subsequent tasks:

- justifying shortages or large amounts of excess cash and inventory items at enterprises, institutions, and organizations, as well as identifying the duration of these events using primary documents;
- analyzing transactions related to the receipt, storage, production, sale of inventory, cash resources, fixed assets, and provision of services in terms of complying with documentation requirements;
- verifying the legitimacy and accuracy of disclosing information about business transactions involving fixed assets, tangible assets, cash, securities, and other resources in the course of accounting;
- assessing the correctness of accounting for accruals and payments, including salaries and other types of payments;
- evaluating the documentary justification of the corporate income tax base declared by the taxpayer and verifying the accuracy of the tax obligation amount determined according to tax control data for a particular reporting period;
- verifying the accuracy of calculations for tax obligations and input value-added tax (VAT) credit, determining VAT payable and VAT claimed for budget reimbursement;
- documentary assessment of specific elements of tax obligations and fees determined by the taxpayer in submitted declarations, reports, or calculations.

Let us pinpoint that a comprehensive audit of financial and economic activities conducted at enterprises, organizations, and institutions by forensic economists (to identify breaches of legislation, including tax legislation, and those responsible for such violations) does not fall within the competence of forensic economic examination. Such actions are within the powers of the state financial and tax control authorities [46].

46 Інструкція про призначення та проведення судових експертиз та експертних досліджень : затв. наказ. Мін'юсту України від 08.10.1998 р. № 53/5 (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/z0705-98#Text (date accessed: 10.04.2025).

The objects of forensic economic (forensic accounting) examination are categorized as follows:

1) primary accounting documents confirming business transactions;
2) accounting registers in which economic processes are recorded (e.g., books, journal vouchers, turnovers, accounting records, etc.);
3) electronically stored information (in particular, accounting data that is processed or stored using computer equipment);
4) financial statements, including cashier reports, advance reports, commodity reports of materially liable persons, etc.;
5) enterprise's financial statements submitted in the prescribed formats;
6) inventory records (specifically, property inventories, reconciliation statements, minutes of meetings of inventory commissions, explanations of materially liable persons);
7) audit certificates issued by controlling authorities;
8) other official documents (including: orders for hiring or dismissal, employment agreements and contracts, liability agreements, bank correspondence, certificates, etc.);
9) protocols of investigative (search) actions: interrogations of the accused and witnesses, protocols of confrontations, inspection, and seizure of documents;
10) unofficial documents that (although unofficial) are relevant to the expert research;
11) conclusions of specialists in different forensic disciplines (commodity, construction, technical, etc.);
12) other documents that govern the economic entity's activities and may have evidentiary or auxiliary value in the course of forensic examination [47].

It is essential to highlight that the mechanism of compensation for property damage involves attachment of property, filing a civil action, and restitution. Furthermore, with voluntary consent, the suspect may transfer equivalent property to the victim and provide other services that are of value for the victim.

Conclusions

Property damage proving in economic criminal offenses is a mandatory component of criminal procedure. The investigator is responsible for evidence collection in this type of offense, while certain studies are the exclusive domain of forensic experts, specialists, auditors, etc. The damage resulting from a criminal offense must be proven in criminal proceedings. It is also vital to introduce a set of compensation (indemnification) measures both at the pre-trial stage and during the criminal trial.

Generally speaking, tangible and intangible benefits shall be indemnified or compensated for in criminal proceedings. During the pre-trial investigation stage, documents are collected, witnesses, victims, and suspects are interrogated, and forensic examinations are initiated to verify the occurrence of property damage. The choice of a particular measure depends on the stage of criminal proceedings, peculiarities of the investigative situation, and realization that the planned measure's purpose can be fulfilled under these conditions.

47 Волкова І. А. Судово-бухгалтерська експертиза : навч. посіб. Київ, 2009. С. 18.

The author outlines some aspects of proving property damage in economic criminal offenses, for most of which it is of decisive importance in the context of criminal law assessment. Our subsequent research will focus on the legal, organizational, and tactical principles involved in collecting evidence of property damage during the pre-trial investigation of crimes in economic activity.

Доказування майнової шкоди в господарських кримінальних правопорушеннях

Віталій Усатий

Мета статті — з'ясувати особливості доказування майнової шкоди під час досудового розслідування кримінальних правопорушень у сфері господарської діяльності. З'ясовано, що завдання із доказування майнової шкоди у господарських кримінальних правопорушеннях є обов'язковою складовою кримінальної процесуальної діяльності. За цими видами кримінальних правопорушень збирання доказів є компетенцією слідчого, а окремі дослідження — судових експертів, спеціалістів, ревізорів та ін. Завдану кримінальним правопорушенням шкоду потрібно довести саме у кримінальному провадженні. Важливо також реалізувати комплекс заходів із відшкодування (компенсації) як на стадії досудового провадження, так і під час судового розгляду кримінального провадження (справи). За загальним правилом, у кримінальному провадженні підлягають відшкодуванню або компенсації матеріальні й нематеріальні блага. На стадії досудового розслідування збирають документи, допитують свідків, потерпілих і підозрюваних, ініціюють проведення судових експертиз із метою засвідчити факт завдання майнової шкоди. Обрання конкретного заходу зумовлюють стадія кримінального провадження, особливості слідчої ситуації, а також усвідомлення того, що мети запланованого заходу можна досягти за цих умов. Окреслено окремі аспекти доказування майнової шкоди у господарських кримінальних правопорушеннях, для більшості з яких вона має вирішальне значення у кримінально-правовому контексті. Правові, організаційні й тактичні засади реалізації способів збирання доказів на підтвердження майнової шкоди під час досудового розслідування кримінальних правопорушень у сфері господарської діяльності стануть предметом наших подальших досліджень.

Ключові слова: *кримінальне правопорушення; господарська діяльність; доказування; доказ; майнова шкода; процесуальна дія; судова експертиза.*

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References

Barabash, T. M. (2003). *Predmet dokazuvannia u kryminalnykh spravakh pro ukhylennia vid splaty podatkiv, zboriv, inshykh obov'iazkovykh platezhiv* [Proving subject in criminal cases of evasion from taxes, fees or other mandatory payments] : dys. ... kand. yuryd. nauk. Kyiv [in Ukrainian].

Didenko, V. L. (2024). *Vykorystannia spetsialnykh znan pry rozsliduvanni kryminalnykh pravoporushen u biudzhetnii sferi* [The use of special knowledge during the investigation of criminal offenses in the budgetary sphere] : dys. ... kand. yuryd. nauk. Dnipro. URL: https://dduvs.edu.ua/wp-content/uploads/files/Structure/science/rada/new_d0872702/2024/1/1/d.pdf [in Ukrainian].

Dondyk, H. P. (2011). *Vykorystannia spetsialnykh bukhhalterskykh znan pry rozsliduvanni zlochyniv u sferi silskohospodarskoho vyrobnytstva* [Applying specific accounting expertise to investigate crimes in agricultural production] : dys. ... kand. yuryd. nauk. Dnipropetrovsk [in Ukrainian].

Dondyk, N. Ya. (2006). *Vykorystannia spetsialnykh bukhhalterskykh znan pry rozsliduvanni ekonomichnykh zlochyniv* [Applying specific accounting expertise to investigate economic crimes] : dys. ... kand. yuryd. nauk. Kharkiv [in Ukrainian].

Dudorov, O. O. (2014). Zlochyny u sferi hospodarskoi diialnosti: osoblyvosti kryminalnoi vidpovidalnosti [Crimes against economic practices: particular issues of criminal liability]. *Visnyk Asotsiatsii kryminalnoho prava Ukrainy.* № 1 (2). URL: http://dudorov.com.ua/images/download/stattya-zlochini-u-sferi-gospodarskoji-diyalnosti.pdf [in Ukrainian].

Kikinchuk, V. V. (2014). *Metodyka rozsliduvannia zlochyniv, poviazanykh z vykorystanniam biudzhetnykh koshtiv v ahropromyslovomu kompleksi* [Methods of investigating crimes involving the use of budget funds in agroindustrial complex] : avtoref. dys. ... kand. yuryd. nauk. Dnipropetrovsk. URL: https://dspace.nlu.edu.ua/bitstream/123456789/14147/1/Kikinchuk_2014.pdf [in Ukrainian].

Kikinchuk, V. V., Husieva, V. O. (2020). *Osoblyvosti rozsliduvannia kryminalnykh pravoporushen, pov'iazanykh z protypravnym pohlynanniam ta zakhoplenniam pidpryiemstv, silskohospodarskykh zemel, porushenniam prav yikh zakonnykh vlasnykiv (reiderstvo)* [Peculiarities of investigation of criminal offenses related to the illegal acquisition and seizure of enterprises, agricultural land, violation of the rights of their rightful owners (raiding)] : nauk.-metod. rek. Kharkiv. URL: http://dspace.univd.edu.ua/xmlui/handle/123456789/9813 [in Ukrainian].

Koriakin, R. V. (2006). *Restytutsiia u suchasnomu kryminalnomu protsesi Ukrainy* [Restitution in modern criminal process of Ukraine] : avtoref. dys. ... kand. yuryd. nauk. Kyiv [in Ukrainian].

Kovalov, Yu. Yu. (2021). *Vykorystannia spetsialnykh znan pid chas rozsliduvannia koruptsiinykh zlochyniv* [Use of special knowledge in the investigation of corruption crimes] : dys. ... d-ra filos. u haluzi prava. Kharkiv. URL: https://uacademic.info/ua/document/0821U100819 [in Ukrainian].

Kurman, O. V. (2002). *Metodyka rozsliduvannia shakhraistva z finansovymy resursamy* [The methods of the investigation of swinding with financial resources] : dys. ... kand. yuryd. nauk. Kharkiv. URL: https://uacademic.info/ua/document/0402U002349 [in Ukrainian].

Liubeznikov, D. O. (2024). *Dosudove vidshkoduvannia zapodiianoi shkody kryminalnym pravoporushenniam* [Pretrial compensation for damage caused by a criminal offense] : dys. ... d-ra filos. u haluzi prava. Irpin. URL: https://surl.li/dpqxab [in Ukrainian].

Mudretska, H. V. (2011). *Metodyka rozsliduvannia vykraden biudzhetnykh koshtiv* [Methodology for investigating theft of budget funds] : avtoref. dys. ... kand. yuryd. nauk. Irpin [in Ukrainian].

Petrova, I. A. (2012). *Teoretyko-pravovi ta orhanizatsiino-metodolohichni zasady rehuliuvannia sudovo-tovaroznavchykh ekspertyz spozhyvchykh tovariv* [Theoretical-legal and organizational-methodological bases of regulation of the forensic and commodity examinations of consumer goods] : dys. ... d-ra yuryd. nauk. Kharkiv. URL: https://uacademic.info/ua/document/0512U000231 [in Ukrainian].

Pyrih, I. V. (2015). *Teoretyko-prykladni problemy ekspertnoho zabezpechennia dosudovoho rozsliduvannia* [Theoretical and applied problems of expert support in pre-trial investigation] : monohrafiia. Dnipropetrovsk. URL: https://dduvs.edu.ua/wp-content/uploads/files/Structure/library/student/monogr.pdf [in Ukrainian].

Semeniuk, O. A. (2024). *Vykorystannia spetsialnykh znan pid chas rozsliduvannia pryvlasnennia, roztraty maina abo zavolodinnia nym shliakhom zlovzhyvannia sluzhbovym stanovyshchem* [Use of special knowledge during the investigation of appropriation, waste of property or possession of it by abuse of official position] : dys. ... d-ra filos. u haluzi prava. Kyiv. URI: https://elar.navs.edu.ua/handle/123456789/29848 [in Ukrainian].

Shcherbakovskyi, M. H. (2016). *Teoretyko-metodolohichni ta prakseolohichni zasady sudovykh ekspertyz u kryminalnomu protsesi* [Theoretical, Methodological and Praxeological Principles of Forensic Expertise in Criminal Proceedings] : avtoref. dys. ... d-ra yuryd. nauk. Kharkiv. URI: http://dspace.univd.edu.ua/xmlui/handle/123456789/2582 [in Ukrainian].

Shevchenko, O. V. (2017). *Vykorystannia spetsialnykh tovaroznavchykh znan pid chas dosudovoho rozsliduvannia* [Applying specific commodity expertise during pre-trial investigation] : dys. ... kand. yuryd. nauk. Kyiv [in Ukrainian].

Shramko, O. M. (2021). *Vykorystannia spetsialnykh znan pid chas rozsliduvannia koruptsiinykh kryminalnykh pravoporushen* [Use of special knowledge in the investigation of corruption offenses] : dys. ... d-ra filos. u haluzi prava. Kyiv. URL: https://uacademic.info/ua/document/0821U102258 [in Ukrainian].

Simakova-Iefremian, E. B. (2017). *Teoretyko-pravovi ta metodolohichni zasady kompleksnykh sudovo-ekspertnykh doslidzhen* [Theoretical-legal and methodological foundations of complex forensic research] : dys. ... d-ra yuryd. nauk. Kharkiv. URL: https://uacademic.info/ua/document/0517U000760 [in Ukrainian].

Stepaniuk, R. L. (2012). *Teoretychni zasady metodyky rozsliduvannia zlochyniv, vchynenykh u biudzhetnii sferi Ukrainy* [Theoretical foundations of the methodology for investigating crimes committed in the budgetary sphere of Ukraine] : dys ... d-ra yuryd. nauk. Kharkiv [in Ukrainian].

Stiebieliev, A. M. (2016). *Pravove rehuliuvannia vidshkoduvannia (kompensatsii) shkody u kryminalnomu protsesi Ukrainy* [Legal regulation of damages reimbursement (compensation) in criminal proceedings Ukraine] : dys. ... kand. yuryd. nauk. Kharkiv. URI: https://ekhnuir.karazin.ua/handle/123456789/12500 [in Ukrainian].

Tataryn, I. I. (2015). *Zabezpechennia vidshkoduvannia shkody, zapodiianoi kryminalnym pravoporushenniam, na dosudovomu rozsliduvanni* [Ensuring of compensation for damage caused by a criminal offence at pre-trial inquiry] : dys. ... kand. yuryd. nauk. Lviv. URL: https://uacademic.info/ua/document/0416U001222 [in Ukrainian].

Tiulieniev, S. A. (2023). Mozhlyvosti pocherkoznavchoi ekspertyzy u rozsliduvanni reiderstva [Forensic Handwriting Examination Possibilities in the Investigation of Raiding]. *Visnyk Odeskoho naukovo-doslidnoho instytutu sudovykh ekspertyz Ministerstva yustytsii Ukrainy*. Vyp. 14. DOI: 10.32782/2522-9656/2024-14-3 [in Ukrainian].

Tiulieniev, S. A. (2024). Pryznachennia sudovykh ekspertyz pid chas rozsliduvannia kryminalnykh pravoporushen, pov'iazanykh iz reiderstvom [Appointment of forensic examinations in the course of investigation of criminal offences related to raiding]. *Pravo i bezpeka*. № 1 (92). DOI: 10.32631/pb.2024.1.10 [in Ukrainian].

Trach, S. S. (2023). *Kryminalistychna metodyka rozsliduvannia kryminalnykh pravoporushen u sferi hospodarskoi diialnosti v Ukraini* [Forensic methodology for investigating criminal offenses involving economic activity in Ukraine] : monohrafiia. Odesa [in Ukrainian].

Vasyliev, V. V. (2016). *Pravove rehuliuvannia vidshkoduvannia shkody, zavdanoi zlochynom* [Legal regulation of compensation for harm caused by the crime] : avtoref. dys. ... kand. yuryd. nauk. Kharkiv [in Ukrainian].

Volkova, I. A. (2009). *Sudovo-bukhhalterska ekspertyza* [Forensic accounting examination] : navch. posib. Kyiv [in Ukrainian].

Volobuiev, A. F. (2001). *Naukovi osnovy kompleksnoi metodyky rozsliduvannia koryslyvykh zlochyniv u sferi pidpryiemnytstva* [Scientific fundamentals of complex investigation methods of crimes for gain in the entrepreneurship] : dys. ... d-ra yuryd. nauk. Kharkiv.

URL: https://uacademic.info/ua/document/0502U000216 [in Ukrainian].

Vorobiova, I. A. (2016). *Zabezpechennia ta vyrishennia tsyvilnoho pozovu v kryminalnomu provadzhenni* [Securing and resolving civil claims in criminal proceedings] : avtoref. dys. ... kand. yuryd. nauk. Zaporizhzhia [in Ukrainian].

Vynnyk, A. O., Marmura, O. Z., Pasieka, O. F. (2023). *Kryminalni pravoporushennia u sferi hospodarskoi diialnosti (v skhemakh)* [Criminal Offenses in Economic Activity (In Schemes)] : navch. posib. / za red. O. F. Pasieky. Lviv. URL: https://dspace.lvduvs.edu.ua/bitstream/1234567890/5342/1/gosppravpdf [in Ukrainian].

Usatii, V. (2025). Proving Property Damage in Economic Criminal Offenses. *Theory and Practice of Forensic Science and Criminalistics.* Issue 2 (39). Pp. 175—188. DOI: 10.32353/khrife.2.2025.13.