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**METHODS OF PERPETRATION AND CONCEALMENT OF THE
BUDGET FUNDS THEFT DURING THE PURCHASE OF
MEDICAL EQUIPMENT AND MEDICINES IN UKRAINE**



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ABSTRACT

The main ways of committing and concealing crimes related to theft of budget funds during the procurement of medical equipment and medicines in Ukraine are discussed, and their content is revealed.

Keywords: appropriated funds, drugs, medical equipment, looting.

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СПОСОБЫ СОВЕРШЕНИЯ И СОКРЫТИЯ ХИЩЕНИЙ БЮДЖЕТНЫХ СРЕДСТВ ПРИ ПРОВЕДЕНИИ ЗАКУПОК МЕДИЦИНСКОГО ОБОРУДОВАНИЯ И ЛЕКАРСТВ В УКРАИНЕ

АННОТАЦИЯ

Рассматриваются основные способы совершения и сокрытия преступлений, связанных с хищением бюджетных средств при проведении закупок медицинского оборудования и лекарств в Украине, раскрывается их содержание.

Ключевые слова: бюджетные средства, лекарства, медицинское оборудование, хищения.

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УКРАИНАДА ТИББИЙ ЖИҲОЗЛАР ВА ДОРИ-ДАРМОН ВОСИТАЛАРИНИ СОТИБ ОЛИШДА БЮДЖЕТ МАБЛАҒЛАРИНИ ТАЛОН-ТАРОЖ ҚИЛИШ ВА ЯШИРИШ УСУЛЛАРИ

АННОТАЦИЯ

Украинада тиббий жиҳозлар ва дори-дармон воситаларини сотиб олишда бюджет маблағларини талон-тарож қилиш ва яширишнинг асосий усуллари кўриб чиқилган ҳамда уларнинг мазмуни ёритилган.

Калит сўзлар: бюджет маблағлар, дори воситалари, тиббий асбоб-ускуналар, талон-тарож қилиш.

Public attention has always been drawn to public procurement of medicines. Not only the health but often the lives of patients depend on how much the state will provide its citizens with medicines, small Ukrainians with vaccines, on their effectiveness and safety. Ukraine has peculiar features of this process, for example, the deficit of funds allocated, that is, the money for one hundred percent needs is not enough. In a situation alike, purchases should be made as transparently as possible, carefully considered, taking into account the fair coverage of all budget programs. Although it is not possible to cover all the needs, the money is considerable. Thus, the amount of state budget allocations allocated by the Ministry of Health for centralized purchase of medicines and medical products has increased 1.5 times compared to 2015. Purchasing has long been transformed into a bald pie (name it as you please) for corrupt officials [1]. That is, the problems of identifying and investigating abuses related to misplaced spending of money for medical equipment and medicines are of scientific and public interest.

The results of the investigation of criminal proceedings on crimes related to the theft of budget funds during the procurement of medical equipment and medicines showed that these crimes are usually committed in a combination of several *corpus delicti*. This tendency is a characteristic of crimes committed in the budgetary sphere and in the field of public procurement in particular.

Analysis of the statistical reporting indicates that along with the main crime in the specified area (Article 191 of the Criminal Code of Ukraine), the crimes under Art. 364 and Art. 366 of the Criminal Code of Ukraine are committed. In addition, such crimes in some cases are also accompanied by crimes under Art. 205, 210, 358, 364, 364-1, 365-2, 367, 368, 368-2, 368-3, 368-4, 369, 369-2 of the Criminal Code of Ukraine (hereinafter - the Criminal Code of Ukraine).

The conducted analysis of scientific works in the field of combating crimes in the medical sphere showed that, despite their numbers, none of the authors has so far considered modern ways of committing and concealing the embezzlement of budget funds during the procurement of medical equipment and medicines in Ukraine, which has affected choice of subject of article.

The theoretical and empirical analysis has shown that the ways of committing crimes in the field of public procurement of medical equipment and medicines are naturally related to the peculiarities of the subject of these crimes, which are budgetary means, and other elements of their forensic characteristics. In this regard, it should be noted that public procurement is a very specific area of activity where unlawful acts are committed by organized groups of persons in the sole intention of dealing with public funds. In such

crime complexes it is justifiably proposed to distinguish major and subordinate (secondary or auxiliary) crimes [2, p. 206].

Corpus delicti of such crimes, as an element of their forensic characteristics, are naturally linked to other elements. The methods of committing crimes in the field of public procurement are determined in relation to the main crimes:

1) ways of seizing public funds by abusing the position of the entity of the bidder (part 2, 3, 4 of Article 191 of the Criminal Code of Ukraine);

2) ways of committing the crimes provided for in Art. 368 of the Criminal Code of Ukraine (acceptance of an offer, promise or receipt of undue benefit by an official) and Art. 369 of the Criminal Code of Ukraine (offer, promise or unlawful benefit to an official) [3, p. 15].

According to the results of the study, each specific mode of committing crimes in the budget sphere, including during the theft of budget funds in the course of procurement of medical equipment and medicines, consists of a series of interrelated, interdependent and sequential actions in which there is an internal logic, execution of one criminal act inevitably entails the need to commit the next, otherwise the risk of exposure for the offender increases significantly [4, p. 7].

In examining the materials of criminal proceedings, we have identified the most common and common ways of committing crimes related to the theft of budget funds during the purchase of medical equipment and medicines. Here we consider the main ones.

On the part of health workers:

- theft of budget funds by overestimating the cost of medical equipment or medicines;
- public procurement of medical equipment or medicines without carrying out the procedures prescribed by the law, if the contract amount exceeds the statutory limit;
- unlawful separation by the customer of the subject of the procurement into parts in order to avoid the procedures stipulated by the legislation;
- procurement of equipment that is unfit for use or operation;
- procurement of low-quality medicines (counterfeit) or expired medicines;
- failure to perform or improperly perform by the official his / her official duties in terms of acceptance of inventory by quantity and quality;
- signing bogus agreements for the supply of medical equipment or medicines;
- ignoring the requirements of the current legislation on state regulation of prices for medicines by the customers;
- recognition of the tenderer as the tenderer whose proposal does not comply with the tender documentation;
- excess of the actual costs of financing received by the customer for the purchase of medical equipment or medicines;
- violation of the procedure for determining the volume of need for the purchase of medicines by health institutions and institutions, which are fully or partially financed from the state and local budgets;
- acceptance of the offer for gain;
- the official negligence of the officials of the institutions and enterprises-customers when accepting and signing acts of acceptance of medical equipment or medicines by quantity and quality.

On the part of bidders and suppliers:

- falsification of the tender offer documents, namely providing the tenderer with false information regarding its compliance with the established qualification criteria for

the tender;

- creation of a business entity for the purpose of obtaining funds under the contract without fulfilling the terms of the specified contract;
- realization of poor quality to the customer, that is, that does not meet the established standards, norms, rules and specifications, or incomplete medical equipment or medicines;
- forgery of documents confirming the quality of medical equipment or medicines;
- offer or give undue benefit to the customer's official for signing by the customer's representatives acts of acceptance of medical equipment or medicines that do not meet the terms of the public procurement contract;
- offer or give undue benefit to the customer's official by signing a fictitious or untrue contract for the purchase of medical equipment or medicines.

Next, let's look at typical ways to hide a crime. As we have noted, thefts associated with the theft of budget funds when purchasing medical equipment and medicines are usually committed in multiple corpus delicti. Usually these are several crimes, which in turn are divided into major (aimed at seizing budgetary funds) and subordinate - peculiar stages of achieving the purpose of the main crime (can be used to conceal the main crime). In order to conceal a major crime, subordinates may be committed both before and after the commission of the main crime. As a rule, those crimes that are committed after the main crime, are aimed at concealment [5, p. 50].

As a rule, the following crimes are committed to conceal the embezzlement of budget funds while purchasing medical equipment and medicines:

- that precede the main crime: signing fictitious agreements for the supply of medical equipment or medicines; recognition of the successful tenderer as a tenderer whose proposal does not comply with the tender documentation; falsifying tender documents, namely providing tenderers with inaccurate information regarding their compliance with the established qualification criteria for the tender; creation of a dummy enterprise; forgery of documents confirming the quality of medical equipment or medicines; offering or giving undue benefit to a customer's official by signing a fictitious or untrue contract for the purchase of medical equipment or medicines;
- committed after committing a major crime: offering or unduly benefiting a customer's officer by signing acts of acceptance of medical equipment or medicines that do not meet the terms of the public procurement contract; forgery of documents confirming the quality of medical equipment or medicines; forgery of documents confirming the fact of delivery of medical equipment or medicines.

Considering the abovementioned, it can be concluded that today the methods of committing and concealing the embezzlement of funds during the procurement of medical equipment and medicines in Ukraine are quite dynamic and rapid. Therefore, the constant monitoring of updated and new ways of committing and hiding the investigated type of crime is one of the important and ongoing tasks of both law enforcement officials and academics.

References:

1. Держзакупвлқ лқққв қз симптомами кримқнального правопорушення [Електронний ресурс]. URL: <http://ua.racurs.ua/1668-derjzakupivli-likiv-iz-symptomatu-kryminalnogo-pravorushennya> (дата звернення: 09.10.2017).
2. Пашков В. Правовий господарський порядок у забезпеченні антикорупційної

дқяльностқ у сферқ охорони здоров'я / Вқталқй Пашков [Електронний ресурс] /
/ Режим доступу: <http://www.apteka.ua/article/39950>. - Назва з екрана.

3. Меденцев А. М. Способи вчинення злочинқв у сферқ державних закупқвель
// Вқсник Харкқвського нацқонального унқверситету қменқ В. Н. Каразқна. Серқя
"Право". 2015. № 1151. Вип. 19. С. 205-208.

4. Меденцев А. М. Розслқдування злочинқв, що вчиняються у сферқ державних
закупқвель : автореф. дис. на здобуття наук. ступеня канд. юрид. наук : спец. 12.00.09
"Кримқнальний процес та кримқналқстика; судова експертиза; оперативно-
розшукова дқяльнқсть". Одеса : МГУ, 2015. 20 с.

5. Коломқець О. О. Протидқя пқдроздқлами ДСБЕЗ МВС України розкраданню
коштқв, що вчинюється на об'єктах бюджетної сфери : автореф. дис. на здобуття
наук. ступеня канд. юрид. наук : спец. 12.00.09 "Кримқнальний процес та
кримқналқстика; судова експертиза; оперативно-розшукова дқяльнқсть". Київ :
НАВС, 2013. 21 с.

6. Протидқя пқдроздқлами ДСБЕЗ МВС України злочинам пқд час проведення
державних закупқвель на пқдприємствах залқзничного транспорту : наук.-
методичнқ рек. / В. В. Коряк та қн. ; за заг. ред. О. М. Джужқ. Київ, 2011. 94 с.